A GUIDE TO THE

STUDY OF THE

CONSTITUTIONAL & POLITICAL HISTORY OF THE UNITED STATES.

1789-1860.

INTENDED AS THE BASIS OF A COURSE OF LECTURES OR OF A COURSE OF PRIVATE STUDY.

By FREEMAN SNOW, Ph.D.

Instructor at Harvard University.

CAMBRIDGE:
W. H. WHEELER, PUBLISHER & PRINTER.
1882-83.

OUTLINE HISTORY OF THE UNITED STATES

CHAPTER I.

Introductory Period, 1763–1789.

1. Causes which led to the Revolution.

In order to better understand the Constitution and the conditions under which it was formed and had its development, it is necessary to take a brief view of the period preceding its adoption. This will properly embrace the causes which led to the war of the Revolution, the revolutionary period, and the confederation and formation of the Constitution.

In considering the causes which led the colonies, first to remonstrate, and then to declare war against the mother country, it must be recognized as a fundamental fact, that the colonists were, with few exceptions, of the Anglo-Saxon race—a race first and most persistent in the assertion of the freedom and rights of the people. As British subjects, the colonists claimed all the rights ever granted to British subjects from the Magna Charta in 1215 to the Bill of Rights in 1689. The common law too, the great bulwark of English liberty, was with some modifications the law of the colonies.

Far removed from the direct control of the home government, and often neglected by it, the colonists had been from the earliest times accustomed to administer their own local affairs. In the town meetings and the colonial assemblies they had learned the principles of self-government, and through these had imbibed the spirit of independence, which in any case would, sooner or later, have brought about a separation from the mother country.

The three forms of government in the colonies, provincial, proprietary, and charter, were all modeled on the form of the English government, of king, lords, and commons: in the colo-

nies, a governor, council, and representatives. The popular branches of these colonial assemblies, like their prototype, the House of Commons, early asserted their rights as British subjects not to be taxed without their consent. Not being represented in the British Parliament, the colonists denied the right of that body to levy taxes in the colonies. The attempt of Parliament to do this was the immediate cause of the Revolution of 1776.

To the navigation laws and to duties for the purpose of regulating commerce the colonies had always submitted, but when in 1763 the British government entered upon a system of taxing them for the purpose of raising a revenue, the colonies made the most strenuous objection. This policy was really inaugurated by the writs of assistance in 1761 for the stricter enforcement of the navigation laws. Then followed the "sugar act" of 1764, the "stamp act" of 1765 (repealed in 1766, but the right of taxation reaffirmed) (Pitkin, I. 433), the tariff bill of 1767, and the tea act of 1773 (Pitkin, I. 262-4).

In opposition to these measures a congress of nine of the colonies met at New York, at the call of Massachusetts, in October 1765, and drew up the "Declaration of Rights and Grievances," asserting the right to trial by jury, and the right to freedom from taxation, except by the colonial assemblies, admitting, however, the right of Parliament to legislate generally and to regulate trade. (Pitkin, I. 446). In 1770 the riot and attack upon British troops in Boston took place (in opposition to the "*quartering act*" of 1765), in December 1773, the destruction of tea, principally in Boston harbor. (Hildreth, III. 27-32.)

In retaliation for this act of the colonists a series of bills were passed by Parliament in the spring of 1774, known as the "Boston Port Bill" (March 31st), closing the port of Boston and removing the seat of government to Salem; a bill changing the charter of Massachusetts (May 20), placing nearly all powers in the hands of the crown, and prohibiting town meetings except for elections; a bill to remove to another colony, or to England, trials of officers charged with murder in support of the government (May 3d); at about the same time a bill for quartering troops in America, and the "Quebec Act," extending the boundaries of that provence to include what later became the Northwest Territory. (Bancroft, VI. 511-528; Hildreth, III. 32-4.)

This hasty legislation of the British Parliament gave the final impetus to colonial resistance and colonial union in America.

In the colonies there were many differences, as differences in religious belief, in manners, customs, and occupations, which tended to keep them apart. But the similarities which drew them together, common race, traditions, laws, political education, and interests, were more fundamental in character, and it required only outward pressure to weld the colonies into one nation. The wars in which the colonies had been engaged had already tended toward this result; the oppression of Great Britain was the final means.

The principal authorities on this period (1763-1774) are, for brief histories: Story's Commentaries on the Constitution, I. §§ 159-197; Hildreth's History of the United States, II. 514-563; Pitkin's History of the United States, I. 155-281; Tucker's History of the United States, I. 75-102. More extended histories: Bancroft's History of the United States, Volumes V. and VI.; and the biographies of leading men, particularly Tudor's Life of James Otis; Wells' Life of Samuel Adams; Wirt's Life of Patrick Henry; Life of John Adams, Vols. I. and V. Lodge's History of the English Colonies in America is important as giving an insight into the life, habits, thoughts and manners of the colonists at the commencement of the Revolution. Chapter II. is typical of the life in the South, and Chapter XXII. of that in New England.

II. The Revolutionary Period.

The measures taken by Great Britain against the colonies in 1774 alarmed the colonists. A second congress of all the colonies, except Georgia, met at Philadelphia on the 5th of September, 1774 "to consult upon the state of the colonies," and to obtain a redress of grievances. This congress, known as the "First Continental Congress," organized as a deliberative body, electing officers and adopting rules of proceeding, each colony having one vote in the assembly.

The important work of this congress was the adoption of a "Declaration of Colonial Rights," based upon the "laws of nature, the principles of the English constitution, and the several charters." (Pitkin, I. 285; for a resume, Hildreth, III. 43.) This declaration, though similar to the first (1765), was more

forcible from the fact that it was accompanied by the adoption of measures of resistance to be employed if no redress were granted. This congress did not assume the powers of a government; colonial independence was not yet determined upon. On adjourning, however, in October, it recommended the meeting of another congress in the following May, if in the meantime no redress were had.

No redress having been obtained, the second "Continental Congress" met at Philadelphia on the 10th May, 1775. In this body the delegates were principally chosen by conventions of the people, and came clothed with authority to take measures to recover and establish American rights, not, however, with full powers of government. In the mean time the battle of Lexington had taken place, Great Britain was making warlike preparations, and some of the colonies, preparations for resistance. In this emergency the congress immediately assumed all the sovereign powers of government: organized an army, established a post-office and a treasury department, issued bills of credit, established prize courts, and issued letters of marque and reprisal. These are acts of sovereignty, yet this congress, prior to the Declaration of Independence, was not a legal, but only a revolutionary government, and its acts were valid only so far as they were ratified, expressly or tacitly, by the people of the colonies. When patriotic ardor had somewhat cooled Congress found difficulty in enforcing its measures.

The course of the war and the rejection by England of all measures of conciliation brought about the Declaration of Independence (July 4, 1776). (Pitkin, I. 365, and appendix to this volume.)

In addition to this declaration of the congress of all the colonies, nearly all the individual colonies declared themselves independent by separate acts. The question afterward arose, whether the Declaration of Independence created one independent state, or thirteen separate independent states. The better opinion would seem to be that the colonies became, by that declaration, individually independent, and that the union of the colonies at that time rested only on the voluntary consent of the separate members, revocable at their pleasure. This was the opinion of the Supreme Court in the case of Ware *vs.* Hylton (III. Dallas Repts. 199), also that of Senator Edmunds (North Am. Rev., Oct. 1881).

The colonies acted as one government in opposition to English aggression, and the Continental Congress assumed the powers of a sovereign state; but Congress could only recommend measures which were subject to the adoption or rejection of the several colonies.

When it had been determined to declare the colonies independent, there immediately arose the question of a permanent union and of a regularly organized government to take the place of the temporary government of the Continental Congress. On July 12th, 1776, a committee, appointed for the purpose, reported to Congress the draft of articles of confederation. With various amendments these articles were accepted by Congress on November 15, 1777, and recommended to the several states for their adoption. The smaller states insisted, as a condition precedent to the ratification of the articles, that certain states should cede to the confederacy the vast western territory claimed by them. After much controversy this was done, and the Articles of Confederation were finally ratified by the last of the states, Maryland, on March 1, 1781, at which time the confederation went into operation. (See appendix for text of Articles of Confederation.) In the mean time the Continental Congress had continued to act as the organ of the United States in prosecuting the war. In 1778 a treaty was made with France, through whose aid the war was brought to a successful termination in 1783.

III. The Confederation and Causes of its Failure.

The Confederation was a league of states, in which each state retained its "sovereignty, freedom, and independence." In the formation of a permanent government the colonists showed their distrust of all political power not held immediately in their own hands. As in forming their state constitutions they were careful to insert a bill of rights for the security of individual liberty, so in the confederation of states they were careful to reserve to the states a controlling influence. There was as yet little feeling of loyalty for a general government new and untried. The Articles of Confederation conferred upon Congress sovereign powers, but on the other hand they created limitations to those powers which rendered them almost nugatory. In this attempt to confer sovereign powers upon the Confederation, and yet to make the exercise of them dependent upon the will of the several states, they created

what Senator Edmunds says was neither legally nor philosophically a government.

The powers of the general government were vested in a single representative body, called a congress, possessing both legislative and executive functions. Each state was to maintain its own delegates, and to have one vote in Congress.

The great defect of this government was in the want of authority in Congress to enforce its measures, which, in the most essential matters, could therefore be only in the nature of recommendations. Thus, Congress could make treaties, but could only recommend the observance of them; could borrow money on the faith of the Union, but could not, of itself, pay a dollar, not having the power to levy taxes; could declare war, but could not raise an army. For troops and money Congress could only make requisitions upon the states to furnish their respective quotas and amounts. The powers of regulating commerce, levying customs-duties, and excises, and the general judiciary authority, rested with the states.

The immediate cause of the collapse of the Confederation was the neglect or refusal of the states to respond to the requisitions for money made upon them by Congress. From the 1st January, 1781, to the 1st June, 1786, less than two and a half millions of dollars were received from requisitions amounting to more than ten millions. To remedy this defect, Congress proposed a revenue plan in 1783, by which the states were to grant to the general government, for a period of twenty-five years, the authority to levy a duty of five per cent on imported merchandise. This plan, not being accepted by all the states, failed. The public debt, and even the interest upon it remained unpaid; the national treasury was empty, and foreign nations refused to make further loans to so uncertain a government, or even to enter into treaties of amity and commerce with it. In this emergency leading statesmen saw the necessity either of amending the Articles of Confederation, giving to Congress adequate powers, or of adopting at once a national government with supreme executive, legislative, and judicial authority.

Briefly summed up, the chief causes of the feebleness of the Confederation were: an utter want of coercive authority; a total lack of power to levy and collect taxes, or to raise revenue; no right to regulate foreign or domestic commerce. Moreover, there was no separate executive, and no federal judiciary power, except

in the arbitration of disputes between states. The Federal Government dealt with states only, and could in no way reach the *individual*. For these reasons the Confederation failed utterly to accomplish the ends for which it was created, and necessarily gave place to a national government in which all these defects were remedied.

Literature of the period (1774-1787).

From a constitutional point of view Curtis' History of the Constitution Vol. I., and Story's Commentaries, Vol. I. §§ 198-271, are perhaps the best and most convenient authorities to consult. As a commentary upon the history of this period Von Holst's Constitutional History, Vol. I. 1-46, should be read. For general histories: Hildreth, III. 1-481 ; Pitkin, I. 282-422, and II. 1-223. Important documents are found also in the appendices of Pitkin's volumes. Tucker, I. 103-347. On the Confederation, Bancroft's History of the Constitution, Vol. I. The most important biographies of this period are those of Madison by Wm. P. Rives, Vols. I. and II. to page 207. Morse's Life of Hamilton, Vol. I. Marshall's Life of Washington, abridged edition, Vols. I. and II. to page 105.

IV. The Formation and Adoption of the Constitution.

The proceedings which led to the formation of the Constitution of the United States began in Virginia. In March, 1785, commissioners appointed by Virginia and Maryland met at Alexandria for the purpose of regulating the navigation and commerce upon the waters of the Potomac River and Chesapeake Bay. Upon the proposal of Maryland to invite the states of Pennsylvania and Deleware to join in the arrangement, Mr. Madison thought he saw a chance for a more general regulation of commerce, and to this end, proposed, in the legislature of Virginia, a convention of all the states to take into consideration the commerce of the United States. Pursuant to the terms of this resolution, which was adopted by the legislature of Virginia, a convention met at Annapolis in September, 1786. But as only five states were represented the convention deemed it inexpedient to take any action in regard to commerce, but merely recommended to the several states and to Congress the appointment of commissioners from all the states to meet at Philadelphia in the following May "to devise such further provisions, as shall appear to them necessary, to render the con-

stitution of the Federal Government adequate to the exigencies of the Union." On the 21st February, 1787, Congress passed a resolution recommending such convention to meet in the ensuing May "for the purpose of revising the Articles of Confederation, — in order to render the Federal Constitution adequate to the exigencies of government and the preservation of the Union." Accordingly, commissioners of all the states, except Rhode Island, met at Philadelphia in May, 1787, but not till the 25th were a sufficient number present to begin work.

Almost without exception the best men of the nation were sent to this convention; statesmen of experience, who had been leaders in the Revolution and who were fully aware of the defects in the Articles of Confederation. Yet there was a difference of opinion as to the measures to be adopted. It was thought by many that there was no authority in the convention to form a *new* and *different* government, but only to *revise* the Articles of Confederation (see the last article of that instrument). Others, especially Hamilton and Madison, believed that no revision of the then existing government could be adequate to the requirements of a great state, and were resolved, notwithstanding technical objections, to form a national government to replace the Confederation. This last named opinion prevailing in the convention the next question which arose was as to the form and powers of the new government. Here again those chiefly who had favored a confederation in which the states were the principal factors now attempted to restrict the "national," or "consolidated," government within the narrowest possible limits. In a great many details the result was a compromise between these parties, though the nationalist view prevailed in the main features.

The Constitution was based upon the system already existing in the states, and in form was like the English government, but with essential differences in practice. With the Confederation it was in radical contrast. Some of the more important differences were the following: —

The Constitution was a government representing the people as well as the states, instead of the states alone, thus creating "a more perfect Union." There were three separate and independent departments of government: executive, legislative, and judicial, instead of one representing all three, as under the Confederation. In the Constitution all sovereign powers are not only expressly

granted to the United States, and prohibited to the states, but all the machinery of government necessary to enforce the laws and compel obedience is therein provided. The Confederation had no coercive powers. Even had it possessed them it is doubtful if a government acting only upon collective communities could for a long time succeed in enforcing their obedience. The history of past confederacies would seem to bear out this view.

Under the Constitution, again, the federal government was given the exclusive right of levying imposts upon imported merchandize, and of regulating commerce with foreign nations and among the states; also the right to levy and collect excises and direct taxes, thus rendering the federal treasury independent of the states, and establishing uniform rules of commerce and navigation. Under the Confederation the states had possessed these functions to the exclusion of the general government.

Other powers vested in the Federal Government by the Constitution, not possessed by the Confederation, were the authority to call out the militia of the states and the exclusive right to coin money.

One of the most important changes was the creation of a federal judiciary. It is the function of the Supreme Court of the United States to interpret the Constitution and to guard it from the encroachments of both national and state legislation. In the performance of this duty it has acted as a balance wheel to the whole governmental system.

Finally, it should be borne in mind that the new government was a mixed system, neither wholly federal nor wholly national, but partaking of both those principles. Thus, in the legislature, consisting of two coördinate bodies, the Senate is based upon the federal, and the House of Representatives upon the national principle.

The Constitution having been adopted by the convention on the 17th of September, 1787, Congress resolved, on the 28th of the same month, to submit it "*to a convention of delegates chosen in each state by the people thereof*," in conformity to there solution of the convention. (See appendix for the text of the Constitution.)

Eleven of the states having ratified the Constitution, Congress on the 13th of September, 1788, by resolution, appointed the first Wednesday in Janury, 1789, for the choice of electors of president, and the first Wednesday in March following the time for commencing, at New York, proceedings under the Constitution.

According to these instructions, George Washington was elected President, and John Adams, Vice-President. Senators and representatives having been chosen, the government went into full operation on the 30th of April, 1789.

North Carolina adopted the Constitution in November, 1789, and Rhode Island in May, 1790.

Authorities on this subject: —

Story, I. §§ 272-305; Hildreth, III. 482-539; Pitkin, II. 224-291; Tucker, I. 348-383; Von Holst, I. 43-63; Life of Madison, II. 91-657; Morse's Life of Hamilton, I. 155-275; Bancroft's History of the Constitution, Vol. II. On the proceedings of the convention, "The Madison Papers," Volumes II. and III.; Volume V. of Elliot's "Debates;" and also the "Notes" of Yates. For the debates in the state conventions for the ratification of the Constitution, Elliot's "Debates." For a contemporary commentary on the Constitution, the "Federalist," written by Hamilton, Madison, and Jay, is of the highest importance. Later commentaries are those of Story; Kent's "Commentaries on American Law," Vol. I. part II.; Curtis, Vol. II.; and Cooley's "Principles of Constitutional Law," an excellent and convenient volume.

CHAPTER II.

Administrations of Washington and John Adams, 1789-1801.

I. Organization of the Government under the Constitution.

1. Congress. — According to a resolution of the old Congress (Sept. 13, 1788) the legal date on which the Constitution went into effect was the first Wednesday of March, 1789, the time fixed for the meeting of Congress at New York. But quorums necessary to transact business were not present in both houses until April 6, on which day the electoral votes for President and Vice-President were counted.

The House of Representatives, having a quorum on March 30, organized on April 1st by the election of Frederic H. Muhlenburg of Philadelphia as Speaker.

The number of representatives from each state until after the first census (1790) was specified in the Constitution, amounting in all to 65 members, including those of North Carolina and Rhode-Island. (Art. I. Sect. 2.) [1]

The states differed in the method of choosing representatives. Massachusetts, New York, Virginia, Maryland, and South Carolina elected them by districts; but New Hampshire, Pennsylvania, New Jersey, and Georgia, by general ticket. Again, in the South, as a rule, the choice by pluralities was adopted, whilst in New England a majority of all the votes was necessary to elect. This latter method, often necessitating second elections or long vacancies, has given place to the plurality system. (Hildreth, IV. 46; Schouler I. 65, note 1.) By a law of Feb. 2, 1872, representatives "shall be elected by districts composed of *contiguous* territory." (Revised Statutes, Sect. 23.) By the same law (Ibid., Sect. 25) a uniform time for the election of representatives in all the states and territories was prescribed, namely, "The Tuesday next after the first Monday in November, in every second year," beginning with the said day in 1876. This law was modified by a subsequent

[1] See appendix, p. 39, for subsequent apportionments under the several censuses.

act "so as not to apply to any state that has not yet changed its day of election, and whose constitution must be amended to effect a change in the day of the election of state officers in such state." (Supplement to Revised Statutes, 1882, Sect. 6.)

The House chooses its officers; but the appointment of committees, in accordance with the rules of the House, rests with the speaker. At this time there was but one standing committee provided for, that on elections, and measures were thoroughly discussed in committee of the whole house before being submitted in the form of bills. These standing committees have now increased to forty-three in number, and exercise almost complete control over the business of the House, propositions being referred to them without discussion. (Benton, Debates I. 23, note 2.) The previous question, too, as a means of stopping debate, scarcely known in the early congresses, has come to be almost a regular method of procedure. (Hildreth, IV. 50-51; Cooper's "American Politics," VI. 26.)

The Senate.—By a law of Congress (July 25, 1866) the method of electing senators is prescribed: "The legislature of each state which is chosen next preceding the expiration of the time for which any senator was elected . . . . shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in Congress" etc. (Revised Statutes, Sections 14-19; Cooley, p. 47.) The Senate, not having a presiding officer of its own selection, elected not only its other officers, but also its committees, by ballot. The use of formal committees of the whole was not adopted, but bills, on their second reading, were freely discussed, "*as if in committee of the whole.*" (Hildreth, IV. 51.) Besides its legislative function, the Senate has a voice in making treaties and in the appointments to office. At first the clause in the Constitution (Art. II. Sec. 2) conferring upon the Senate this right was interpreted to mean that "the advice and consent" should be obtained beforehand. This practice, adopted by Washington, was, however, dispensed with on account of its inconvenience. (Benton's "Abridgment of the Congressional Debates," I. 17, note.) Until the 20th of February, 1794, the Senate sat with closed doors, and there is therefore no published debates of that body previous to that time. Extracts of its journal are found in Benton, Vol. I.

2. *Organization of the Executive Departments.*—The Constitution did not provide for the executive departments, and mentions

them only incidentally (Art. II. Sect. 2). The Congress of the Confederation had conferred subordinate executive authority upon certain bureaus, namely, a bureau of foreign affairs and a bureau of war, each with a secretary; also a treasury board consisting of three commissioners. (From 1781-84 this board was superseded by a superintendent of finance.) There was also a postmaster-general. This plan, though greatly modified, was made the basis of the new system.

The House took up this subject on May 19, 1789, and after debate determined upon the establishment of three departments: those of foreign affairs, treasury, and war; a fourth, the home department, was proposed by Vining of Delaware.[1] (Benton's Debates, I. 85 and 94.)

The first of the departments to be established was that of Foreign Affairs (July 27, 1789. Stat. at L., I. 28.) Later in the same session (Sept. 15) this department was enlarged so as to embrace certain domestic affairs, and the name changed to Department of State. (Stat. at L., I. 68.) In addition to diplomatic affairs, the Secretary of State now had charge of the great seal, and of the preserving and promulgating the laws of each session. He is considered the first officer of the cabinet, and is more directly the representative of the President. (Hildreth, IV. 102; Schouler, I. 94; Benton's Deb., I. 85, 86, 108.)

The Department of War was reorganized (Aug. 7) nearly on the old footing, the Secretary to have, moreover, the superintendence of naval affairs.[2] The military establishment consisted of a regiment of infantry and a battalion of artillery; of the old navy not a ship remained afloat. (Stat. at L., I. 49; Hild. IV. 104; Schouler, I. 94.)

The first and most important duty of the new Congress was that of establishing the credit of the nation. The Treasury Department was to be the agent through which this was to be effected. By the Act of Sept. 2, 1789, establishing this department, the following important duties were entrusted to the Secretary of the Treasury: "To digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; to prepare and report estimates of the public revenue, and

1. In 1849 a home department was established under the name of Interior Department.
2. A separate naval department was established on April 30, 1798. (Stat. at L., I. 553.)

the public expenditures; to superintend the collection of the revenue; to decide on the forms of keeping and stating accounts and making returns, and to grant under the limitations herein provided, all warrants for moneys to be issued from the treasury, in pursuance of appropriations by law; to execute such services relative to the sale of public lands as may be by law required of him; to make report, and give information to either branch of the legislature, *in person or in writing* (as may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform." The Secretary was allowed an assistant, appointed by himself. There was also to be a comptroller, an auditor, a treasurer, and a register. (Stat. at L., I. 65.) By this system of checks and counter-checks no money could be paid out except under an appropriation made by Congress, on a claim certified to by the auditor and on a warrant signed by the Secretary of the Treasury, countersigned by the comptroller and recorded by the register. This system, extended by the appointment of additional officers, still remains in force very much as originally established. (Hildreth, IV. 102-3; Bent. Deb. I. 90-4.) The office of assistant to the Secretary was abolished in 1792, but restored in 1849. An act of March 3, 1857, took the appointment of the assistant from the Secretary and put it in the hands of the President. March 3, 1817, a second comptroller was appointed, and four additional auditors, and a sixth auditor, July 2, 1836. The Act of May 29, 1830 (Stat. at L., IV. 414) created the office of Solicitor of the Treasury — the legal officer of the Treasury; that of March 3, 1849, a Commissioner of Customs; that of July 1, 1862, a Commissioner of Internal Revenue.

In the debate upon the bill of September 2, 1789, it was asserted that "to allow the Secretary to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit" would be "a dangerous innovation upon the constitutional privilege of this House." (Benton, Deb., I. 109.) Art. I. § 7, of the Constitution provides that "All bills for raising revenue shall originate in the House of Representatives." It would "establish a precedent which might be extended until we admitted all the ministers of the government on the floor . . . . thus laying a foundation for an aristocracy or a detestable monarchy." (Ibid.) The above provision, however, was retained, and, later, was

one of the causes of hostility between Hamilton and Jefferson; for Hamilton, as Secretary of the Treasury, was repeatedly called upon to perform this duty; and mainly through the jealousy of Jefferson —Secretary of State—it was determined that the Secretary of the Treasury should communicate to Congress in writing, and not in person.

Another long debate arose mainly in connection with the establishment of the Department of State. The Constitution provided that the President "by and with the advice and consent of the Senate" should make *appointments* to office. On the one side it was held that such advice and consent was necessary (by implication) also for *removals* from office; but on the other, it was maintained that such a requisition would hamper the President and would render impossible removals during a recess of the Senate. (Benton, Deb., I. 102-4; Schouler, I. 96; Hildreth, IV. 104-108. The latter view prevailed.[1])

The Post-Office Department was established by the Acts of Congress of September 22, 1789, and May 8, 1794, but the Postmaster-General did not become a cabinet officer until 1829; and then only on account of the immense patronage within his gift.

The office of Attorney-General was created by the 35th section of the judiciary act of September 24, 1789, and as an adjunct to the judiciary (Stat. at L., I. 93). But as the legal adviser of the President and the heads of departments the Attorney-General soon became a regular member of the cabinet as head of the *Department of Justice*. As general counsel for the United States the Attorney-General is intrusted with the management of its interest in suits pending before the Supreme Court, and, to aid him in this and other duties, a Solicitor-General, three assistant attorneys-general, a Solicitor of the Treasury, a Solicitor of Internal Revenue, and a naval Solicitor are provided. (Revised Stat., p. 59; Schouler, I. 97.)

3. *The Federal Judiciary:*—The bill for the establishment of the judiciary originated in the Senate, and became a law September 24, 1789. The Supreme Court of the United States was to consist of a Chief Justice and five associate justices, to hold two

1. But in Andrew Johnson's administration, the President being in general opposed to Congress, the "Tenure of Office Act" was passed, taking from the President the sole right of removal in the case of all civil officers whose appointment required the consent of the Senate. (Cooper, Bk. V. 10, and Revised Stat., Sects. 1760-3 and 1767-75.)

sessions annually at the seat of government.[1] (Stat. at L., I. 73.)

Congress also established by the same act inferior tribunals: a District Court in each federal district, whose limits corresponded in the main with those of the states. These districts were grouped into three circuits, in each of which was established a Circuit Court. There were no separate circuit judges provided for, these courts being held by the district judges, presided over by a justice of the Supreme Court.[2]

The "district courts were to have both civil and criminal jurisdiction, and original cognizance of admiralty" and prize causes.

In criminal matters the jurisdiction of the circuit courts was to be concurrent with that of the district courts, and exclusive as to all higher crimes. (Schouler, I. 96, 97; Hildreth, IV. 109-111; Revised Stat., Sec. 629-657.)

In each district there are the following officers of court: a district attorney, the prosecuting officer of the general government; a marshall, corresponding to the sheriff in the state system; and a clerk of the court. (Hildreth, IV. 3.)

4. Executive appointments.— President Washington's first cabinet was constituted as follows: Thomas Jefferson, Secretary of State; Alexander Hamilton, Secretary of the Treasury; John Knox, Secretary of War; and Edmund Randolph, Attorney-General. Of these, Hamilton and Knox were Federalists, and Jefferson and Randolph were Anti-Federalists. In thus calling into his cabinet men of opposite opinions, Washington attempted to reconcile the two parties.

The Chief Justiceship was given to John Jay of New York, who had been at the head of Foreign Affairs. The associate justices were William Cushing, Chief Justice of Massachusetts; James Wilson, of Pennsylvania; John Blair, a Virginia judge; John

1. The present number is a Chief Justice and eight associate justices, holding one annual session, beginning December 1.

2. An act of March 2, 1869, provided that "for each circuit there shall be appointed a circuit judge," equal with the Supreme Court justice in powers and jurisdiction: that circuits shall be held by the circuit justice, or the circuit judge of the circuit, or by the district judge sitting alone, or by any two of the said judges sitting together," and that each Supreme Court justice should attend in each district of his circuit at least once in two years. (Revised Stat., Sect. 605-612.) The number of justices of the Supreme Court, and of district judges, and the boundaries of circuits and districts, have varied from time to time. Since 1869 the number of justices has been a Chief Justice and eight associate justices, and nine circuits. At present there are fifty-nine districts and fifty-three district judges.

Rutledge, of South Carolina; and James Iredell, of North Carolina, all eminent lawyers or judges. "Local distinction in the legal profession was carefully regarded in filling the district judgeships. In selecting marshals and customs officers Washington showed much favor to gallant Revolutionary comrades, some of whom were now in straitened circumstances." But where the duties of the office required peculiar qualifications, Washington made impartial and fitting selections. (Schouler, I. 108, 111; Hildreth, IV. 131.)

In order to gain time for establishing treaty relations with foreign nations, the appointment of foreign ministers was delayed. Samuel Osgood, of Massachusetts, was appointed Postmaster-General.

5. *Political Parties in 1789.* — Although party lines were not yet strictly drawn in 1789, nevertheless the elements existed, as shown in the debates upon the adoption of the Constitution, for two sharply defined political parties divided on the general issue of a strong central government. The party which had carried through the Constitution to its final adoption naturally came into power under the new government, and assumed the name of Federalists. Those who had opposed the Constitution previously to its adoption now changed their ground of opposition, and in order to prevent an extension of the powers granted to the general government, attempted to limit those powers to the narrowest possible limits. They thus became known as the party of strict construction, under the title of Anti-Federalists, and gradually assumed the role of obstructionists. These parties, moreover, showed a sectional bias, New England and the North in general being Federalist, Virginia and the South, Anti-Federalist. But these differences did not appear until brought out by the bold measures of the Secretary of the Treasury in 1790.

6. *Temporary Revenue.* — As a revenue was one of the most pressing needs of the new government, as it had been of the old, it was this subject which first occupied the attention of the House of Representatives. The very general prejudice against excise taxes led Congress to turn its attention towards customs duties as the source of revenue. On the 8th of April Mr. Madison proposed a temporary system of imposts, to be based upon the Revenue Plan of 1783, to which all the states except New York had recently given their assent. Upon spirituous liquors, wines, tea, coffee, sugar, molasses, and pepper, it was proposed to levy specific

duties; upon all other imported articles, an ad valorem duty. (Benton, Deb., I. 22, 23.) This tariff was primarily for revenue, but during the discussion which followed, the advocates of various interests urged the protection of their particular industries until finally the measure became a moderately protective tariff. Mr. Fitzsimmons of Pennsylvania advocated at once the addition of more than fifty articles to the enumerated list (*i. e.* list of articles for which protection was demanded) principally for the purpose of "encouraging the productions of our own country, and to protect our *infant manufactures.*" Mr. Hartley, of the same state, urged a general policy of protection to home manufactures. He thought it "both politic and just that the fostering hand of the general government should extend to all those manufactures which will tend to national utility." (Benton. Deb. I. 25; Young, Customs-Tariff Legislation, p. 6.)

Mr. Madison believed in the general principle of freedom of commerce. "I own myself," he said, "the friend of a very free system of commerce, and hold it as a truth that commercial shackles are generally unjust, oppressive, and impolitic. It is also a truth that if industry and labor are left to take their own course they will generally be directed to those objects which are most productive, and that in a manner more certain and direct than the wisdom of the most enlightened legislature could point out; nor do I believe that the national interest is more promoted by such legislative restrictions, than that the interest of individuals would be promoted by legislative interferenee directing the particular application of its industry." (Annals of Congress, I. 112; Tariff Legislation, p. 7.) Mr. Madison, with others, believed that in America protection would be more properly accorded to agriculture than to manufactures. He admitted however that there were exceptions to the general rule of freedom of commerce; and for this reason, and in deference to the opinions of others, accepted the various amendments increasing the number of specified articles. (Benton, Deb. I. 26.)

In the mean time petitions were coming in from mechanics and manufacturers praying for protection against foreign competition. Massachusetts and Pennsylvania, particularly, wished protection for the various manufactures which had sprung up in those states. While the agricultural states, more especially of the South, were opposed to high duties except upon articles of luxury, and those

not produced in the United States. In the discussion of the details of the bill, the debates soon showed the strong local interests which sought protection. These interests combined succeeded in increasing the number of enumerated articles to eighty or upward; upon about half of these there were to be ad valorem duties, on the others specific duties. The ad valorems ranged from 7½ per cent to 12½ per cent (only in one case, that of carriages, was there a higher tax, 15 per cent). The specific duties were generally moderate. On all unenumerated articles the duty was to be 5 per cent ad valorem. These low rates could give but little protection, and was meant to do so only incidentally, yet the principle contended for was the same as that evinced in all the great debates upon this question at later periods in our history; and therefore this first tariff discussion is worthy of careful study.

The bill, which became a law on July 4, 1789, has the following preamble: "Whereas it is necessary for the support of the government, for the discharge of the debts of the United States, and the *encouragement and protection of manufactures*, that duties be laid, etc." (Stat. at L., I. 24.)

Upon the recommendation of the Secretary of the Treasury (Report to House January 14, 1790) the duties under this tariff were increased on the average about 2½ per cent, by an act of August 10, 1790. Massachusetts now opposed higher duties. (Benton, Deb. I. 22-44, 57-64, 69-84; Tariff Leg. 4-17; Schouler, I. 86-92; Hildreth, IV. 65-101.)

The tonnage duties, proposed by Mr. Madison at the same time with those of customs, were adopted by a separate act July 20, 1789. (Stat. at L., I. 27.) An attempt was here made, led by Mr. Madison, to discriminate very decidedly against England; but this object was defeated in the Senate. (Schouler, I. 90-92; Hildreth, IV. 77-83.)

A motion to amend the Tariff Act by imposing a duty of ten dollars on each slave imported was lost after considerable debate. (Hildreth, IV. 91-96; Benton, Deb. I. 73-76.)

II. Hamilton's Financial Policy.

On September 21, 1789, the House of Representatives resolved, "that an adequate provision for the support of the public credit is a matter of high importance to the honor and prosperity of the United States, and directed the Secretary of the Treasury to pre-

pare a plan for that purpose, and to report the same to the House at its next meeting." Pursuant to this resolution, Mr. Hamilton prepared his *report* on the *public credit*, and submitted it to the House, *in writing*, on January 14, 1790. He recommended: (1) the funding of the national debt, (*a*) the foreign debt including back interest, amounting to $11,700,000, (*b*) the domestic debt, about $42,400,000; (2) the assumption of the debts of the states, estimated at $25,000,000.

Hamilton's whole financial scheme, as later developed, embraced the creation of a national bank, and the levying of excise taxes. In scope it was much more than a mere financial scheme; it was rather a far reaching political policy, which was to affect the whole future existence of the new government. Hamilton wished a strong federal or central government; a system in which the states should take a subordinate place. The Constitution was interpreted by the Federalists to intend such a government, and it was their policy now to put the real power into its hands.

"It is certain," says Von Holst, "that no other measure of the federal government contributed in even an approximate degree to the actual consolidation of the Union." (I. 83-4.)

In the funding of the foreign debt it was Mr. Hamilton's intention to restore the credit of the nation in the eyes of foreign governments; in the case of the domestic debt, and the assumption of the debts of the states, to cause the creditors to look to the general government rather than to those of the states, and thus to create among the people a feeling of interest and sympathy for the welfare of the Union. (Von Holst, I. 84, 85; Schouler, I. 130-32; Hildreth, IV 152-160; Marshall, Life of Washington, V. 255; Van Buren, Political Part., 144-8.)

The Anti-Federalists saw the political significance of these measures, and violently opposed them. (Von Holst, I. 83; Marshall, Life of Washington, V. 241.)

In addition to the benefits of a sound public credit which his policy promised, Hamilton maintained that the funded debt would answer most of the purposes of money; transfers of stock or public debt being equivalent to payments in specie. Hence it would increase the loanable capital and therefore trade would be extended, agriculture and manufactures would be promoted, while the interest of money would be lowered. (See the Report in Hamilton's Works, III. 1-45.) It was a part of Hamilton's scheme to provide

by permanent taxes in some form for the interest on every dollar of the public debt, and that a certain revenue should be set aside for the gradual extinction of the principal.

To the funding of the foreign debt there was little objection, and that to the principle of a funded debt in general; but there was serious opposition to the payment in full of the present holders of the domestic debt, and to the assumption of the state debts. On the 8th of February the debate was opened by Mr. Smith, of South Carolina (one of the few southern Federalists), in a speech in favor of the Secretary's views, followed on the same side by Boudinot, Fitzsimmons, Ames, Sedgwick, Hartley, Gerry, and others; the principal speakers in opposition were Scott, Livermore, Tucker, and Jackson. (Benton, Deb., I. 190-201, 205-228; Hildreth, IV. 152-174; Tucker, I. 416-430; Schouler, I. 130-136; Morse's Life of Hamilton, I. 287-332.)

Mr. Madison proposed to discriminate between the public creditors, paying the present holders of public securities the highest price it had borne in the market, and giving the residue to the person with whom the debt was originally contracted. (Benton, Deb., I. 205, 206.) Hamilton and the Federalists asserted that any discrimination in these debts would be unconstitutional, unjust, and dishonest. The United States, as a party to the contract, could take no equitable view of it. After a long debate Madison's amendment was defeated.

Still greater opposition was made to the assumption of the debts of the states. In general those states having the greatest debts, especially Massachusetts and South Carolina, favored assumption. Other states (*e. g.* Virginia) had, by means of taxation, largely paid up their indebtedness; these opposed the measure. The strongest argument in its support was that these debts were mostly contracted in the general cause.

It was objected that too much power would thus be concentrated in the general government; moreover that the Constitution did not expressly confer upon Congress the power of assuming the state debts — the beginning of the movement against a liberal construction of the Constitution.

The bill, after once having passed the House (March 9) was finally defeated, 29 to 31, the members from North Carolina having in the mean time taken their seats, and voting against it. The discussion of the bill caused great excitement, eastern members even threatening the dissolution of the Union.

A compromise was finally effected. There had been before Congress for some time a bill for fixing the permanent seat of the government. The Eastern and Middle States desired the Capital to be located either upon the Delaware or Susquehanna, while the Southern States contended for a site on the Potomac. It was agreed among the party leaders (Hamilton, Jefferson, and others) that the North should yield as to the seat of government, and the South, on the Assumption Bill. Accordingly a bill passed, July 16, to fix the Capital on the Potomac after the year 1800, the temporary seat of government to be at Philadelphia. (Stat. at L., I. 130.)

The assumption bill was then taken up and passed, together with the funding bill, August 4, 1790. (Stat. at L., I. 138; Benton, Deb., I. 250 note.)

"The whole compromise" says Von Holst, "was a bargain between the North and the South. The 'geographical' and 'sectional' character of the parties was a matter of frequent mention and lament. (I. 86, 87.)

The amount of state debts assumed by the Federal government was $21,500,000, specific sums being assigned to each state. (Stat. at L., I. 142; Hildreth, IV. 215 and 210-216; Schouler, I. 136-142.)

Hamilton's report had also included the proposal to levy an excise tax upon spirits distilled within the country, as the customs duties would not be sufficient to meet the expenses of the government. But this first excise bill was rejected by the House, June 21, 1790.

The next year, however, on Hamilton's recommendation, another bill was introduced and passed May 3, 1791, by the provisions of which an excise tax was imposed on liquors distilled within the United States. (Stat. at L., I. 203.) The dissatisfaction produced by this measure was widespread, and led to the "Whiskey Rebellion" of 1794. (Hildreth, IV. 253-5; Von Holst, I. 94, 95; Benton, Deb., I. 262 and 270.)

The First National Bank. — In Hamilton's, second report, besides the excise mentioned above, he recommended the creation of a National Bank. The advantages of the bank were chiefly three, namely: it would supply a uniform currency, would increase the active capital of the country, and would give greater

facilities to the general government in conducting its monetary transactions and exchanges, and in negotiating temporary loans.[1]

The act to incorporate the bank, originating in the Senate, became a law February 25, 1791. (Stat. at L., I. 191.)

"The expediency of establishing a national bank was at that time a very different question from its expediency now." The great need then was a stable national currency, if not coin, then the best substitute, redeemable paper. Hamilton opposed the emission of paper by the National Government. He believed that in spirit Art. I. Sect. 10 applied to the General, as well as to the state governments. He thought that the power of emitting paper was so liable to abuse that the Government ought not to trust itself to employ it. Its use was inconsistent with the regular and prosperous course of political economy. For government paper, he continues, there could be no measure of the quantity needed for circulation; but for the issue of bank paper the demand was a reliable standard. (Morse, Life of Hamilton, I. 335-6.)

As to the plan of the bank, Hamilton insisted that "it must be directed by individuals, and subject to the guidance of individual interest, not of public policy"; that it should, from time to time, ask from the Government a renewal of its charter; that the Government should be a shareholder, though not of the principal part of the stock; and should have the privilege of frequently inspecting the accounts of the bank, though with no power of control. "The capital stock was set at $10,000,000, divided into 25,000 shares of $400 each. The subscriptions were receivable, one-quarter in gold and silver coin, three-quarters in the 6 per cent certificates of the national debt — a provision that brought government bonds up to par, and gave the bank an interest in sustaining the credit of the United States. No one person or corporation could hold more than 1000 shares. (Morse, I. 339.) "The whole property which the bank could hold, capital included, was limited to fifteen millions of dollars, nor were its debts exclusive of deposits ever to exceed ten millions. . . . The bank might sell, but could not purchase, the stocks of the United States. Its general business was therefore restricted to dealing in bills of exchange, and gold and silver. The interest it might take was limited to 6 per cent. No loan could be made to the United States exceed-

[1] For a brief history of the currency previous to 1789, see Hildreth, IV. 256-260; Sumner, "History of American Currency," 1-59.

ing $100,000, nor to any particular state, exceeding $50,000, nor to any foreign potentate to any amount unless specially authorized by act of Congress." The bank was to be established in Philadelphia, but the directors could establish and supervise branches within the United States, but only for discount and deposit. The affairs of the bank were to be arranged by a board of 25 directors, chosen annually by the stockholders from among themselves. It was to be a bank of deposit and discount; and its bills were to be payable in specie, and receivable in all payments to the United States. "The charter was to continue 20 years, and no other bank was to be established by Congress within that period." (Hildreth, IV. 262-7.) Hamilton's Report on the National Bank (Works, III. 106-46) was submitted to Congress Dec. 14, 1790.

"A bill in almost precise conformity with that submitted by Hamilton passed the Senate very easily Feb. 1, 1791. But when it came to the House it encountered a vigorous opposition. Anti-Federalists saw in it a dangerous extension of the dreaded Secretary's pernicious schemes for strengthening and perpetuating the government. . . . The administration was to be placed in such a relation toward capitalists and the mercantile community as to be sure of their united and zealous support." (Morse, I. 340.) The general utility of the banking system was not admitted and the merits of this bill in particular were questioned. "But the great strength of the argument was directed (says Marshall, V. 294) against the constitutional authority of Congress to pass an act for incorporating a national bank." As to the clauses of the Constitution (Art. I. § 8) giving Congress the power to provide for the "general welfare of the United States" and to make all laws which shall be "*necessary* and proper to carry into execution the foregoing powers," it was said: (1) that the banking system was not especially adapted to secure the general welfare; (2) all powers given to Congress could be executed without the aid of a bank, and hence this measure was not *necessary* (hence unconstitutional).

Moreover, the convenience of a bank was questioned. The augmentation of the circulating medium was considered a demerit. In the transportation of money, bills of exchange and treasury drafts would supply the place of bank bills. Besides, the state banks would make loans to the government. Such a bank as the one proposed would swallow up the state banks, and, especially, would it tend to consolidate the government. (Marshall, V., Ap-

pendix, note 3.) The bill was finally passed by 39 to 20, the division being one between the North and South. Only one man from the North voted against the bill; and only two from the South, for it.

Being in doubt about the constitutionality of the bill, Washington requested the written opinion of the members of his cabinet. The Attorney-General and Secretary of State deemed the bill unconstitutional; while the other two officers considered it constitutional. The long argument of Hamilton, submitted to the President, nearly coincides with the view taken nearly twenty years later by Chief Justice Marshall in the case of McCulloch *vs.* the State of Maryland. (Writings of Marshall, 160.)

Although the stock of the bank was quickly taken up, temporary speculation resulted from the execution of the bank and funding measures. Still as a permanent effect, the public credit rose to such an extent that abroad the United States could obtain loans at a lower rate of interest than most European States. The greater part of the benefits which Hamilton had predicted were realized, and in many cases beyond his expectations. Confidence was restored, and with it came an active revival in every branch of industry: agriculture, manufactures, commerce and navigation. (Hildreth, IV. 274-6.) On the Bank: (Hildreth, IV. 261-267; Schouler, I. 159-162; Van Buren, Polit. Parties, 136 *et seq.;* Morse's Life of Hamilton, I. 333-347; Benton, Deb. — *speech of Madison*, 274-278, and 306-308 — *speech of Boudinot*, 287-291 — *speech of Ames*, 278-282—*other speeches*, from p. 272 to 308; Von Holst, I. 104-106.)

3. Hamilton's Report on Manufactures.—(Hamilton's Works, III. 192). This report, one of the author's ablest State papers, must be considered as the foundation, so far as the theory is concerned, of the American system of protection to home manufactures.

The Revenue Bill of 1789, which gave a partially protective tariff, received the favor of a majority of the House; but the above report is the first full exposition of the doctrine. The opening paragraph thus announces the protective principle: —

"The expediency of encouraging manufactures in the United States which was, not long since, deemed very questionable, appears at this time to be pretty generally admitted. The embarrassments which have obstructed the progress of our external trade have led to serious reflections on the necessity of enlarging the

sphere of our domestic commerce. The restrictive regulations which, in foreign markets, abridge the vent of the increasing surplus of our agricultural produce, serve to beget an earnest desire that a more extensive demand for that surplus may be created at home, and the complete success which has rewarded manufacturing enterprise in some valuable branches, conspiring with the promising symptoms which attend some less mature essays in others, justify a hope that the obstacles to the growth of this species of industry are less formidable than they were apprehended to be; and that it is not difficult to find, in its further extension, a full indemnification for external disadvantages which are or may be experienced, as well as an occasion of resources favorable to national independence and safety."

Yet it is not correct to suppose that Hamilton favored the abstract principle of protection; he had to consider the actual state of commercial affairs. Other countries, and especially Great Britain, imposed restrictions upon foreign commerce which had to be met by counter restrictions.[1]

Once convinced of the expediency of the policy, Hamilton put all the powers of his vigorous mind to the task of showing the advantages which might be derived from it. He, therefore, urged many reasons of a domestic nature: —

Protection primarily fosters the growth of manufacturing establishments, and through these the following benefits are to be expected: (1) The division of labor; (2) The extension of the use of machinery; (3) The additional employment to that class of the community not ordinarily employed; (4) The promotion of immigration from foreign countries; (5) Greater scope for the various talents and dispositions of men; (6) A more ample and varied field for enterprise; (7) *The creation of a more certain and steady demand for the surplus products of the soil.*

In considering the methods by which manufactures might be encouraged, he advises the exemption from duty of the raw materials of manufacture, the allowance of drawbacks on such materials and the giving of pecuniary bounties.

Mr. Hamilton enumerates seventeen manufacturing industries already established, so as fairly to supply the home market; among these were iron, leather, flax, brass, carriages, sugars, gunpowder, pottery, etc.

1. See Pitkin's Statistics, pp. 1–18, for an account of the British restrictions upon manufactures in the colonies.

There were strong objections to this scheme from the agricultural states, and it went over for the time without action. But later in the session the pressing Indian troubles induced Congress to pass an act (March 2, 1792) increasing the tariff, and which incidentally favored some of the industries Hamilton had mentioned. The average increase was 2½ per cent and the average rate under this law, says Mr. Edward Young, was equivalent to an ad valorum duty of 13½ per cent. (Tariff Leg., p. 23; Stat. at L., I. 259). (Hildreth, IV. 307-309; Schouler, I. 186-187; Morse, Life of Hamilton, I. 357-369; Tariff, Leg. 18-23.)

The Report on the Establishment of a Mint, Jan. 28, 1791 (Hamilton, Works, III. 149), was the basis of the Act of April 2, 1792 (Stat. at L., I. 246), establishing a United States Mint, and fixing the ratio of gold to silver at 15 to 1. (Hildreth, IV. 315-319.)

III. Political Parties and Leading Statesmen.

Hamilton's reports and the debates thereon had fully set forth the Federalist policy. The Anti-Federalists, too, had gradually united into a compact party of opposition, under the leadership of Mr. Jefferson, the Secretary of State. Mr. Hamilton, the Secretary of the Treasury, was the acknowledged leader of the Federalists. In view of the important role played by these two men during the early period of our history, it is deemed best to give here a brief sketch of their lives up to the time when they became the leaders of the two great political parties.

Alexander Hamilton was born in the Island of Nevis, British West Indies, on the 11th day of January, 1757. His father was a Scotchman, and his mother of French-Huguenot descent. At the age of twelve he was put into a counting house at Santa Cruz; at the age of fourteen he had shown such a remarkable business capacity that he was left in charge of the whole business in the absence of his employer. But the event which changed the course of his life was the writing of an article for a local newspaper describing a hurricane which had swept over the Island. This was regarded as showing such great ability in a youth of fifteen that his friends determined to give him the opportunity of acquiring a liberal education. For this purpose young Hamilton went to New York in 1772, and studied for a year in a grammar school in Elizabethtown, N. J., and then entered King's College. While yet in College, 1774, he began to write, and to speak in public, on the

rights of the colonies, and with such marked ability that he was immediately brought into general public notice. Even at this time he displayed "a power of reasoning, a sarcasm, a knowledge of the principles of government and of the English Constitution, and a grasp of the merits of the whole controversy, that would have done honor to any man of any age. (Curtis, Hist. of the Const., I. 408.)

In 1776, he entered the army as a captain of artillery; from 1777 to 1782 he was aid-de-camp to General Washington. While holding this position he had an excellent opportunity for observing the course of not only military affairs but civil as well. The failures of the Continental Government were only too painfully known to the General of the Army and to his confidential aid-de-camp. He wrote two letters to Robert Morris, the Superintendent of Finance, which attracted general notice, and in 1780 he sketched the outline of a national government which in the main features resembled the one adopted in 1787.

Resigning his commissiou in 1782, he began the study of the law; in the same year he was elected a Member of Congress from New York. Here again Hamilton was brought face to face with the fatal defects of the government of the Confederation; and was one of the authors of the revenue system proposed in 1783.

In 1786 he was a member of the New York legislature, and in 1787 was sent as a delegate to the Constitutional Convention. He presented to the Convention a plan of government embodying his views, which were in favor of a decidedly strong central authority and the subordination of the states. But accepting the Constitution, when adopted, as the best that could be introduced, no one did more than he to secure its ratification. The fifty-one articles of the "Federalist," written by Hamilton, attest for all time the important part he took.

The remainder of Hamilton's career, which came to an abrupt end, may be given here:

1789-92 . . Secretary of the Treasury.
1795 . . . . Engaged in the practice of the law in New York.
1798 . . . . Appointed second in command of the provisional army.
1804 . . . . Killed in a duel with Aaron Burr.

Hamilton was married (1780) to a daughter of General Philip Schuyler.

Thomas Jefferson was born in Albemarle County, Virginia, in 1743; studied two years at William and Mary College (1760-62), and afterward studied law and became a successful practitioner. Incited by the speech of Patrick Henry on the Stamp Act (1765), he threw his whole soul into the cause of the colonies. From 1769 to 1775 was a member of the Virginia legislature; in 1774 drew up his "Summary View of the Rights of British America"; 1775, elected a delegate to the Continental Congress; 1776, drew up the Declaration of Independence; 1779-81, Governor of Virginia; in 1782, re-elected to Congress; 1784, sent with Adams and Franklin to negotiate treaties with foreign powers; 1785-89, Minister to France; 1789-93, Secretary of State; 1797-1801, Vice-President; 1801-1809, President; 1826, died at Monticello.

Mr. Jefferson, though ranked among the aristocracy of Virginia, belonged rather to the yeomanry by nature and habits. He early showed an inclination to democratic principles. In the state legislature, as one of a commission for revising the laws of the state, he secured the passage of laws forbidding the importation of slaves; for abolishing the law of primogeniture, and providing for the equal partition of inheritances; for establishing religious freedom; and for a system of general education.

His "Summary View of the Rights of British America," gave him Colonial fame, and the Declaration of Independence extended this beyond these limits.

While in Congress the second time, he induced that body to adopt the decimal system, and the dollar as the unit of currency.

While in France, Jefferson found great pleasure in the society of literary and scientific men. As the author of the Declaration of Independence, he was warmly welcomed by the French Republicans. He saw clearly the abuses of monarchy which he believed to be the cause of the French Revolution. While observing the various European governments he became so opposed to monarchial systems that he found little fault with the excesses even of the French Revolution. In his opinion the great danger to liberty in America would come from the government, and particularly from the executive department. He was absent from the country during the most critical period of the Confederation, and therefore did not fully appreciate the necessity of a strong government, nor the difficulties of the framers of the Constitution. His principal objections to the Constitution were, that it contained no bill of

rights, and no provision securing rotation in office, particularly that of President. (Letter to Madison, December 20, 1780.) He also objected to the establishment of the Supreme Court, especially the provision that the judges should be appointed by the President and hold office for life, and should be removable only by impeachment. "They (the judges) are then, in fact, the corps of sappers and miners, steadily working to undermine the independent rights of the states and to consolidate all power in the hands of the central government. Without the Supreme Court as now organized the Constitution is nothing. I deem it indispensable to the continuance of this government that they should be submitted to some practical and impartial control; and that this, to be impartial, must be compounded of a mixture of state and federal authorities."

Mr. Jefferson returned to the United States in November, 1789, and soon after accepted the office of Secretary of State. But Hamilton was at the head of the Treasury, "the natural point of control to be occupied by any statesman who aims at organization or reform, and conversely no organization or reform is likely to succeed that does not begin with and is not guided by the Treasury. (Adams, Life of Gallatin, 67.) Hamilton proceeded to organize and consolidate the Government. In this he experieneed the opposition of the Anti-Federalist party. To preserve, with a few amendments, the Constitution which they had so opposed in 1787-8 was now their special care. By restricting the interpretation to the express words of the instrument, they thought to prevent the dreaded consolidation of the Government. Still by the force of his argument, and by his influence with the party leaders, Hamilton was able to carry through Congress all of his great measures, though at times only by a small majority. Irritated by this, the Anti-Federalists accused him of using the public money in buying up votes, and for the benefit of himself and of his friends, and moreover of having an undue influence with Washington. Washington had always acquiesced in Hamilton's measures, at times against the expressed wishes of Jefferson. The most serious charge against the Federalists was that they (especially Hamilton) were plotting to set up a monarchy; and Jefferson went so far as to charge Washington with playing his part in the conspiracy. (Randall, II. 295.) Jefferson had kept a private journal—"Ana" —containing private conversations that he had had with leading Federalists, in regard to the form of the new government; and

upon these was based the charge of conspiracy. These charges were frequently brought up, especially in the House, and were finally reduced to the single one that he had violated Art. I. Sect. 9, clause 7, of the Constitution: "No money shall be drawn from the Treasury but in consequence of appropriations made by law." The Secretary, it was asserted, had used for other purposes money appropriated by law for special objects. After a long debate the Secretary was exonerated by a vote of 37 to 7. (Benton, Deb., I. 418-440; Hildreth, IV. 393-404; Schouler, IV. 217-20.)

During the first years of the government all sorts of matters, even some not pertaining to his department, were referred to the Secretary of the Treasury. Jefferson complained that his own department was neglected, and affirmed that the influence and patronage already attached to the Treasury threatened to surpass that of the President himself. (Tucker, Life of Jefferson, I. 363; "Ana." February 28, 1792.)

The subject of commerce having, therefore, been referred to Jefferson, he recommended in a report to Congress, December, 1793 (Works, Vol. VII.) a discrimination against England in favor of France. In the debate on Madison's resolutions, embodying this report, the Federalists opposed the discrimination (Jan. 1794). To the assertion that "there is no friendship in trade" Mr. Goodhue added that "there ought to be no hatred." (Benton, Deb., I. 472.) The English party favored England, the French party said, because the most of the commerce of the United States was with England. The fact was that with the return of peace our trade went back to England, not from friendship but in accordance with the laws of trade. The debate was finally postponed, no decision having been reached.

These differences resulted in ill-will between Jefferson and Hamilton, and their disputes were transferred to the press. The Gazette of the United States represented Hamilton; and the National Gazette, Jefferson. The appointment of Freneau—the editor of the latter paper—to a clerkship in the Department of State was much censured. Even Washington did not escape personal newspaper attacks. Hamilton, in his paper, defended his own conduct as opposed to that of Jefferson; but the latter denied that he ever wrote for the National Gazette. Washington wrote to both of the Secretaries (August 22, 1792) vainly endeavoring to reconcile them. The differences grew more radical and bitter; and, Dec. 1793, Jefferson resigned his seat in the cabinet.

Though at variance on nearly every political question, the fundamental difference was as to whether there should be a consolidated government or a loose confederation. Mr. Jefferson said, "I own I am not a friend to a very energetic government. It is always oppressive." He intended that the American system should be a democracy. Mr. Hamilton, on the contrary, "considered democracy a fatal curse, and meant to stop its progress." (Adams, Life of Gallatin, 159.)

On this ground the battle of political parties was fought, and was won by the Federalists. Mr. Curtis says of Hamilton: "The sagacity with which he comprehended all systems, and the thorough knowledge he possessed of the workings of all the freer institutions of ancient and modern times, united with a singular capacity to make the experience of the past bear on the actual state of society, rendered him one of the most useful statesmen that America has known. . . . He understood America as thoroughly as the wisest of his contemporaries, and he comprehended Europe more completely than any other man of that age upon this continent."

Prince Tallyrand said of him: "*Hamilton avoit deviné l'Europe*" (Curtis, I. 410-11, and note), and that of the three greatest men of the epoch — Napoleon, Fox and Hamilton — he considered Hamilton the greatest. (Shay, Hamilton, 33-4.) Professor Bluntschli of Heidelburg, in his lectures on politics, spoke of Hamilton alone among American statesmen, and considered him a greater statesman than Burke.

Jefferson's ability lay in the field of diplomacy. He was inferior to Hamilton both in creative power and in debate, but a theorist of great ideas and noble aims. It is hardly probable, however, that his system would have succeeded, since a consolidated government has barely withstood the storms of party and sectional strife; still the opposition of the Anti-Federalists may have served to restrain the Federalists from a too liberal construction of the Constitution.

Two other leading statesmen of the time were Washington and Madison. The virtues of Washington entitle him to the perpetual reverence and esteem of the American people. He had not the creative genius of Hamilton, nor the philosophic mind of Jefferson; but he was surpassed by none in correctness of judgment. He could not have been, and never desired to be, a partisan; his own conservative views and the logic of Hamilton induced him to ap-

prove the Federalist policy. Though Hamilton was the controlling mind of his administration, Washington's letters, state papers — especially his farewell address (Stat. Man., I. 31-78) — compare favorably with those of any of our statesmen.

Madison was really the working leader of the Anti-Federalist party. In power of debate he was second only to Hamilton. Through the Revolutionary struggle, in the Constitutional and ratifying conventions, these two men had worked together. To them mainly was due the adoption of the Constitution. Madison, indeed, was called the father of the Constitution; with Hamilton and Jay, he wrote "The Federalist"—a classic in our politics. In the debate over Hamilton's financial system, however, Madison first stood in opposition to Hamilton. His friends assert that he was unwilling to follow the Federalists in enlarging the actual powers vested in the General Government by the Constitution. His opponents say that he went over to Anti-Federalism, not from his own convictions, but because his state, Virginia, was strongly Anti-Federalist, and in order to escape removal from political service. Von Holst says of him (I. 160): "There was nothing of the demagogue about him. He is a purely constituted character, spite of the fact that his moral principles did not so unconditionally govern him as to leave his judgment entirely uninfluenced by his desires."

The Federalist party had the greater number of eminent statesmen; and got most of its support from the North. The South was mainly Anti-Federalist.

The party lines had been drawn in regard to questions of forms of government and of domestic legislation; but the Anti-Federalists had, however, condemned both the Constitution and Hamilton's financial measures as being copied from the English system of government; and with the masses the hatred against England was still an active principle. On the other hand France, both on account of the assistance she had rendered the United States in the war of the Revolution, and on account of her present struggle for freedom, was an object of the warmest sympathy.

The Federalists believed that the English Constitution, with the necessary modifications, was the best adapted to the traditions and habits of thought of the American people. They preferred English methods, the result of centuries of experience, rather than to build a system of government upon a theoretical basis, of whose success in practice there could be no assurance. In fact, the Confederation was such a government, and it was a complete failure.

As to the French revolution, the Federalists in general looked upon the Republican atrocities with abhorrence, and saw in them the inherent tendencies to anarchy in a government purely democratic.

In this state of feeling, at the outbreak of war between England and France in 1793, the Anti-Federalists, or *Republicans*, as they now called themselves, were in favor of espousing the cause of France, and insisted upon the fulfilment on the part of the United States of the stipulations of the treaty of 1778. The Federalists, and more particularly the Administration, resolved to follow a strictly neutral policy as between the two belligerents.

For several years all domestic questions were subordinated to this one of foreign policy; the parties even were known as the French and British parties.

See on political parties and men at this period: Hildreth, IV. 331-372; Schouler, I. 165-178 and 200-212; Curtis' History of the Constitution (I. 393-432) gives a sketch of the characters of Washington, Hamilton, and Madison; Von Holst, I. 106-112; Gibbs, Mem. of Walcott, Vol. I.; Tucker, Hist. of United States, I. 485-492 and 501-503; Morse, Life of Hamilton, I. 370-425; Lodge, Life of Hamilton; Tucker, Life of Jefferson; Rives, Life of Madison, Vol. III.; Marshall, Life of Washington (abridged edition), II. 205-6, and 227-235; Van Buren, Political Parties in the United States.

V. Foreign Relations.

Previous to the adoption of the Constitution, owing to the weakness of the Government, and its consequent discredit abroad, the United States had been able to contract but five treaties with foreign nations, namely, France (1778), Holland (1782), Sweden (1783), England (Treaty of Peace, 1783), Prussia (1785).

1. Relations with England. — The Treaty of Peace of September 3, 1783, established the boundaries of the United States, and settled other questions of dispute. (Stat. at L., VIII. 80; U. S. Treaties, 314.) Art. II. of this treaty established the following boundary (Map—Part 1, Blue Book, 1843, LXI. 170; Dominion Atlas, 28, 42, 48, 56). "From the *north-west angle of Nova Scotia*, vis.: that angle which is formed by a line drawn due north from the *source of the St. Croix River* to the *Highlands;* along the said *Highlands* which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic

ocean, to the *north-westernmost head* of the Connecticut River, thence down along the middle of that river to the 45° north latitude; from thence by a line due west on said latitude, until it strikes the river Iroquois or Cataraquy"; . . . . from Lake Superior to the Long Lake; through the Lake of the Woods to the most north-western point thereof, and thence on a line due west to the river Mississippi. (Map—Am. State Papers, I. 493.) The Mississippi was to be the western boundary, and the 31° north latitude the southern boundary.

Art. III. gave the right of fishery in certain British American waters "where the inhabitants of both countries used at any time heretofore to fish," and of drying fish on certain unsettled shores of the British possessions.

Art. IV. that "creditors on either side should meet with no lawful impediment to the recovery of the full value, in sterling money, of all *bona fide* debts heretofore contracted."

Art. VII. The British armies and navies were to be withdrawn with all convenient speed, and without causing any destruction, or carrying away any negroes or other property, from every harbor, post, or place, etc.

Art. VIII. The navigation of the Mississippi was to remain free to citizens of the United States.

Disputes afterwards arose between the two countries as to the meaning of some parts of the treaty, notably, the language defining the northern boundary, which will be mentioned in their proper places.

The United States complained moreover of infractions of the treaty on the part of Great Britain, in that negroes had been carried away contrary to the stipulation of Article VII; and that the British troops had not been withdrawn from the western posts. On the other hand, Great Britain maintained that the negroes carried away had been freed by British commanders during the war and did not come under the stipulations of Art. VII., and in regard to the withdrawal of troops, that it had been delayed because the United States had not carried out the provisions of Article IV. in regard to British debts, the individual states having in many cases prevented their legal recovery. (Hildreth, IV. 136, 453; the case of Ware *vs.* Hylton (Dallas' Rep. III. 199) involves the question of these debts).

Other causes of complaint on the part of the United States were, that British officers incited the Indians to hostilities against

the United States. The navigation law, excluding American vessels from the British West Indies, had been made perpetual by a late act of Parliament, and was now strictly enforced; it seemed to be the policy of the British government to prevent the growth of American commerce. The impressment of American seamen by British commanders was another source of great irritation. Great Britain had refused to enter into commercial or diplomatic relations with the government of the Confederation. In 1791, however, Mr. Hammond was sent as minister to the United States. And at once there arose between Mr. Hammond and Mr. Jefferson, Secretary of State, a discussion of the points in dispute between the two countries. But the difference of opinion was so radical that no settlement of them seemed possible.

In the mean time, hostilities having commenced between Great Britain and France, the first named power, by the orders in council of June 8 and November 6, 1793, instructed its commanders to detain all vessels carrying corn, flour, and meal to France or any French colony, and to take possession of the cargoes on payment for the same. France retaliated; and thus was begun a policy which eventually nearly annihilated the commerce of the United States — commercially one of the most important neutral states.

Congress retaliated by laying an embargo for thirty days (June 4, 1794. Stat. at L., I. 372), which was extended to sixty days. Propositions were made in the House to confiscate British debts; and to resort to non-importation acts in regard to Great Britain. (Benton, Deb., I. 480-502.)

Hamilton proposed an immediate increase of the army and navy. Had these measures finally passed war would have been almost inevitable.

It was about this time, too, (January 1794) that the debate on Madison's resolutions took place, proposing a discrimination in duties against Great Britain. (Benton, Deb., I. 464-472.)

In this critical state of affairs, Washington decided to make a last attempt at a peaceable solution of the difficulties. To this end he nominated Chief-Justice Jay as minister extraordinary to England for the purpose of negotiating a treaty, April 19, 1794. (Von Holst, I. 122-123; Schouler, I. 265-271; Hildreth, IV. 481-490.)

As the result of Jay's mission, a treaty of amity, commerce, and navigation was negotiated with Great Britain on November 19, 1794. (Treaties, 318, 935; Stat. at L., VIII. 116.)

Art. II. British troops to be withdrawn from the western posts by the 1st of June, 1796.

Art. IV. Provided for a survey of the sources of the Mississippi River, and the regulation of the boundary in that quarter.

Art. V. Provided for the appointment of a joint commission to decide what was the "St. Croix."

Art. VI. Certain British creditors to be indemnified; also American merchants who had lost property through British captures.

Art. XII. Allowed vessels under 70 tons burthen to trade with the British West Indies, except in the following articles: molasses, sugar, coffee, cocoa, and cotton. (On account of these exceptions the 12th article of the treaty was rejected by the Senate.)

Art. XIII. Secured reciprocal trade with the British East Indies, with certain exceptions.

Art. XIV. Reciprocal trade with all British possessions in Europe.

Art. XV. Equalized duties between the two countries as nearly as possible, and "no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations." (This is "*the most favored nation*" clause.)

Art. XVIII. Enumerates the articles which shall be considered *contraband of war;* among which are all arms and implements of war; and also naval stores, and materials in general for building ships when destined for an enemy. And further, *provisions* were permitted to be bought up when in the predicament of contraband.[1]

Art. XXI. Citizens of neither state were to accept commissions or fit out vessels for a nation at war with the other.

Art. XXVII. Provided for the extradition of criminals, but in cases of murder or forgery only.

The first ten articles were to be permanent; the others (in reference to commerce) were limited in duration to twelve years.

The treaty was ratified by the Senate and proclaimed by the President, February 29, 1796. Even before the true character of the treaty became known, the suspicion that it favored England caused great opposition throughout the country. Public meetings were held and several mobs occurred. (Hildreth, IV. 547-555; Schouler, I. 295, 6.)

1. France and other continental states have generally refused to consider naval stores as contraband, and provisions in no case whatever.

In the House the merits of the treaty were reviewed in the discussion of two propositions: (1) To call upon the President for all state papers concerning the treaty; (2) To appropriate the sum necessary to carry out the provisions of the treaty.

The House claimed the *right* to judge the treaty, *as it contained a regulation of commerce* and also required an *appropriation of money.* Washington believed that the House did not possess this right in regard to treaties, and refused its demand. (Benton, Deb., I. 692, and note.)

The vote — 51 to 48 — to appropriate the sum ($90,000) necessary to carry out the provisions of the treaty was passed then (as it has often been the case since) rather on the ground of expediency than because the House withdrew its claim to the right both to discuss the merits of a treaty, and, if it chose, to refuse, by appropriation, to carry it out. On the one hand, it was said, that if the House had this right, it, in effect, participated with the President and the Senate in making treaties; on the other hand, if the House *must* appropriate funds necessary to carry out a treaty which shall have been ratified by the Senate and signed by the President, then the Senate and President are masters of the appropriating power. (Benton, Deb., I. 754, note.) "If (says Cooley, Const. Law, 103) by a treaty a sum of money is to be paid to a foreign nation it becomes the duty of Congress to make the necessary appropriation; but in the nature of things this is a duty the performance of which cannot be coerced (*i. e.* can not be compelled by any process of execution). "That the House *can*, without violating any express clause of the Constitution, refuse an appropriation, is clear; but that is far from proving the *moral right* of such a refusal." (Trescot, 123.) In the opinion of the Attorney-General, and of Washington, the House was bound to take such action. Congress, however, has never renounced the claim of discretionary power, and the same subject came up in the cases of the Gadsden Purchase of 1854, of Alaska in 1867, and of the Fisheries Awards in 1878. (Op. of Att.-Gen., VI. 296.)

The debate lasted from March 7th to April 7th, 1796. The Opposition had a small majority, and it seemed probable that the House would refuse to vote the necessary appropriations, when Fisher Ames of Massachusetts, in a very eloquent and patriotic speech (Benton, Deb., I. 743), induced the House to vote the appropriation. For, the inducements to let the Treaty stand as

summed up by Marshall were: "If Congress refused to perform the Treaty on the part of the United States, a compliance on the part of Great Britain could not be expected. The ports on the great lakes would still be occupied by British garrisons; no compensation would be made for American vessels illegally captured; the hostile dispositions which had been excited would be restored with increased aggravation; and that these dispositions must infallibly lead to war, was implicitly believed." (Benton, Deb., 754, N. and the whole debate, Ibid. 639-754; Speech of Gallatin, Ibid. 735; Hildreth, IV. 539-547, 584-618; Schouler, I. 289-297, 308-314; Tucker, I. 569-593; Marshall, Life of Washington (abridged edition), II. 377-386; Von Holst, I. 121-128.)

It was said by the opponents of the treaty, mainly Anti-Federalists, that it sacrificed American interests in regard to commerce and neutral rights, and left unsettled the question of impressment of American seamen, and abandoned the claim for indemnity for the negroes carried away. But probably the fact which excited the greatest enmity against it was that such a treaty with Great Britain would be a direct affront to France.

Jefferson called the treaty "an alliance between England and Anglomen in this country."

It is true that the treaty was not very favorable for the United States, and yet it is also true that it was a great benefit to the country. It gave time, at least, for the country to acquire greater strength and firmness, to settle other foreign questions, and probably it prevented a war with Great Britain.[1]

2. *Relations with France.* — The object of the alliance between France and the Colonies (1778) had been, according to Art. II., "to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the said United States, as well in matters of government as of commerce." But most important in the Treaty of Alliance is Art. XI.: "The two parties guarantee

1 As to the questions of boundary; a convention in 1803 fixed the boundary between the Lake of the Woods and the Mississippi ("the shortest line"). The commission on the question of the St. Croix met at Halifax, March 1798, determining upon the river, but left unsettled the place of its source. (Treaties, 334; Stat. at L., VIII. 131.) Two mixed commissions were instituted to settle the claims of creditors: one, in the case of the British creditors, met at Philadelphia; on account of a disagreement this commission was discontinued in 1798, and the matter was settled by convention, signed by Rufus King on January 8, 1802, the United States agreeing to pay 600,000 pounds sterling. (Treaties, 336, 1014.)

The commission to consider the claims of American merchants met at London, and finished its work in 1804, having awarded in all, over 1,250,000 pounds sterling. (Ibid. 1015-16.)

mutually from the present time, and forever, against all other powers, to wit: The United States (to France its) . . . . *present possessions . . . . in America*, as well as those which it may acquire by the future treaty of peace; And (France) "to the United States their liberty, sovereignty, etc., and their possessions and additions by conquest. Art. XII. declares that "in case of a rupture between France and England, the reciprocal guarantee, declared in said Art. (XI.), shall have its full force and effect the moment such war shall break out." (Treaties, 241.)

By the "Consular Convention," 1788 (Stat. at L., VIII. 108; Treaties, 260), between the United States and France, Consuls were given extensive and extraordinary jurisdiction over their countrymen travelling in the country where they were stationed. The Convention gave them the power of appointing agents in various places, and of establishing a chancery as a place of deposit for consular proceedings, for obligations, and for other acts, by or between persons of their nation, and for legacies or property saved from shipwreck. In this chancery they exercised extensive powers and jurisdiction.

On the outbreak of war between France and England in 1793, the Republicans of France, expecting the aid and sympathy of the United States, sent Citizen Genet as minister to this country for the purpose of organizing naval expeditions against England. On his arrival at Charleston, South Carolina, April 9, 1793, he was received with great enthusiasm by the people; and began at once to enlist American citizens, to fit out privateers and to commission them to cruise against the enemies of France. He also authorized French consuls throughout the United States to erect themselves into prize courts in cases of vessels captured by French cruisers and brought into American ports. These proceedings did not fall within the stipulations of the treaties with France, unless the United States were to be considered an active ally in the war. The cruisers sent out by Genet captured several British vessels, one of them within the capes of Delaware Bay (American waters), the restitution of which was demanded by the British minister. (Hildreth, IV. 416-420.)

News of the French declaration of war against England excited the deepest anxiety in Washington and his Cabinet. By the treaty of commerce (Art. XVII.) French privateers and prizes were entitled to shelter in the American ports — a shelter not to be

extended to the enemies of France. By the Treaty of Alliance the United States were bound, in express terms, to guarantee the French possessions in America. The President and the Federal leaders felt that, in the condition of the country, to join in a European war would endanger the very existence of Republican government in America. For, an insurrection was threatened in Western Pennsylvania, serious party dissensions existed, the fundamental institutions of government were hardly yet organized and settled, the debts of the country in proportion to its resources were very large, and Indian wars existed in the West.

Washington being in doubt whether, in view of the treaty stipulations, a neutral policy would be consistent with the duty of the government, submitted this and kindred subjects to his Cabinet (April 18, 1793). It was unanimously agreed that a proclamation of neutrality should issue, that the new French minister should be received, and that a special session of Congress was not necessary. Upon other points there were differences of opinion. Hamilton, with whom Knox concurred, thought that the reception of Genet should be with an express reserve of the question as to the binding force of the treaties. (Hildreth, IV. 413.) France could change its government, but could not hold the United States to treaties made with a view to a different state of things. As to the effect of the guarantee, they held that it did not apply to an offensive war on the part of France (France had been the first to declare war).

Jefferson, whom Randolph inclined to support, thought the treaties as binding in case of the republic as in case of the king. (On this point International Law agrees with Jefferson rather than with Hamilton.) As to the effect of the guarantee they *declined to give any opinion*, it not being at present necessary, though they believed it binding. Yet, by agreeing to the proclamation of neutrality, they concurred in putting a limit to the binding force of the guarantee, rather difficult to reconcile with its existence at all. The Proclamation (Stat. Man., I. 46) was issued April 22, and announced that the United States would pursue a friendly and impartial conduct toward all the belligerent powers, a course alike required by their duty and their interest; warned citizens to act accordingly; and declared that the Government would not interfere on behalf of those who might expose themselves to punishment or forfeiture under the law of nations by aiding or abetting either of

the belligerents, and would cause all such acts done within the jurisdiction of the United States to be prosecuted in the proper courts. (Hildreth, IV. 415.) Though not containing the word neutral, the Proclamation was in effect one of neutrality. As this was made a party question, Hamilton wrote in its defence seven letters under the name of "Pacificus"; on the other hand, Madison opposed it under the name "Helvidius"—pronounced by some his ablest work. (V. H., I. 114-15; Gideon's Edition of Federalist, 1818; Madison's Writings, I. 611-654.)

To give legal force to the principles of this Proclamation, an act, since celebrated as the "Neutrality Act" (Stat. at L., I. 381), was passed the next year, June 5, 1794. This act made it punishable, with fine and imprisonment: Sect. 1, for any citizen to "accept and exercise a commission to serve a foreign prince or state in war by land or sea"; Sect. 2, to enlist to go beyond the jurisdiction of the United States with the intent to enter such service; Sect. 3, to fit out or aid in fitting out ships of war in the waters of the United States to be commissioned in the service of a foreign state at peace with the United States; Sect. 4, to increase the force or armament of any ship of war in the service of a foreign state at war with a state friendly to the United States. Sect. 6 provided "that the district courts shall take cognizance of complaints . . . . in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof." The act was to be in force for two years; it was continued by the Act of 1797, and made permanent by the Act of 1800.[1]

The neutral policy of the United States in 1793, enforced by the above acts, was (as Jefferson wrote to Genet June 5, 1793) "that it is the right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the duty of a neutral nation to prohibit such as would injure one of the warring powers; that the granting military commissions (considered by Genet one of the usual functions of French consuls in foreign ports) within the United States by any other authority than their own, is an infringement of their sovereignty, and particularly so when granted to their own citizens to lead them to

1 In 1818 when the independence of the Spanish American Republics was declared, and citizens of the United States in sympathy with them were fitting out expeditions for their aid, a more stringent act was passed. The English neutrality Act of 1819, supplemented by the Act of 1870 copied much of these laws. (W. E. Hall, Int. Law, 709.)

commit acts contrary to the duties they owe to their country." (Am. State Papers, I. 67.) Later, Jefferson wrote to Morris, American Minister to Paris, "that a neutral nation must in all things relating to the war observe an exact impartiality toward the two parties." "This policy constitutes *an epoch* in the development of the usage of neutrality . . . . it represented by far the most advanced existing opinions as to what these obligations were; and in some points it even went further than authoritative international custom has up to the present time advanced. In the main, however, it is identical with the standard . . . . now adopted by the community of nations. (W. E. Hall, International Law, 513-676; also Sir Edward Creesy, International Law, 573.) Although this policy did not fully accord with his sympathies with France, Jefferson wrote in its defence some of his ablest state papers.

The Cabinet decided "that the privateering commissions issued by Genet, as well as the condemnation of prizes by the French consuls, were unauthorized by treaty, irregular and void." It was also determined, Jefferson and Randolph dissenting, that the prizes made by the vessels fitted out by Genet, and sent to United States ports, should, according to the proclamation of neutrality, be returned to their owners, on the ground of a breach of neutrality. Jefferson thought the owners ought to content themselves with an appeal to the courts.

Genet protested against the decision of the Cabinet, maintaining that all his acts were within the stipulations of the treaties. This claim was denied by the Government, and clearly disproved by the Secretary of State, Mr. Jefferson, in his correspondence with Genet.

The Anti-Federalists, or "French party," sympathized with Genet and his cause, and violently attacked the Administration. But Genet, presuming too far on the good will of the masses, published an appeal from the Executive to the people. In this he was not supported, and his recall was demanded by the United States Government. France complied with this request, and at the same time demanded the recall of Gouverneur Morris, United States Minister to France — a Federalist who sympathized little with the revolution in that country. Still, France did not as yet find in these complications a *casus belli*, and sent Fauchet to succeed Genet. On this first phase of the controversy with France

see: Hildreth, IV. 411-440; Schouler, I. 243-258; Tucker, I. 504-526.

As soon as the French Directory learned of the ratification of the Jay treaty, they informed Mr. Monroe (the successor of Morris, as United States Minister to France) that they considered the alliance between France and the United States at an end, on the ground that the United States had broken faith with France. Their grievances against the United States were in substance: 1. The Treaty of 1794 provided that United States courts should take cognizance of prizes taken by the French into American ports, notwithstanding the provision to the contrary in the Treaty of Alliance. 2. It gave shelter to English vessels in American ports — contrary to Art. XVII. of the Treaty of Alliance. 3. The Consular Convention had not been executed in two clauses: The United States had prevented consuls (1) from exercising jurisdiction between French citizens, and (2) from arresting French marine deserters. 4. Arrest of the Captain of the corvette Cassius, August, 1795, in Philadelphia, for an action committed on the high seas. Other outrages on French citizens in American waters were complained of. 5. The United States had, knowingly and intentionally (by Treaty of 1794 with England), sacrificed its connection with France, and had allowed England to include among contraband of war certain articles that were not of that nature, thus violating its neutrality. (Hildreth, IV. 675-677; Tucker, I. 602-603.)

As a measure of retaliation the Directory ordered that neutral ships should be treated as they allowed themselves to be treated by England. It was said that Monroe (an Anti-Federalist) neglected to represent to the French Government the true policy of the United States in regard to the Jay Treaty, and thus failed to conciliate that country. "He acted as if the administration had made him complete master of its discretion, and recklessly used it to support the position assumed by the Republicans toward France and England. His want of tact at length assumed so serious a character that Washington was forced in 1796 to recall him." (Von Holst, I. 130 and N.) In his defence, Trescott (167) says: "He conciliated the temper of the French government, carried out three of the four points which were committed to his care, and, without doubt, delayed the expression of the French discontent for a long time; and this, too, when he knew that he had not the confidence of his own government, and when the want of frank

intercourse between himself and the minister in London seriously embarrassed his action."

Monroe was succeeded by C. C. Pinckney of South Carolina, but the French Directory refused to receive a minister from the United States until redress of grievances should be granted by that country to France. Pinckney was even ordered to leave France, and accordingly, early in 1796, he went to Amsterdam.

The news of this treatment aroused great indignation in the United States; it seemed that the country had avoided war with England only to be involved in one with France. Thinking that reconciliation could be secured by such a readjustment of the treaties as to give France advantages equal to those of England, the new administration of John Adams sent John Marshall (a Federalist) and Elbridge Gerry (a Republican) to join Pinckney. (Von Holst, I. 138-40.) The three envoys reached Paris Oct. 4, 1797, but could accomplish nothing. During the attempts at negotiation, the "X. Y. Z. correspondence" took place — an effort by three anonymous persons to mediate between Talleyrand and the United States envoys. Talleyrand demanded a large sum of money as a condition precedent to any settlement. (Hildreth, V. 250-257; Schouler, I. 373-384.)

Meanwhile, as war was being made upon American commerce, Congress passed an act (1798) augmenting the army and navy of the United States; and to meet the extra expense the first direct tax was imposed, July 14, 1798, upon lands, houses, and slaves. (Stat. at L., I. 597.)

On June 13, 1798, Congress passed an act (Stat. at L., I. 565) suspending all commercial relations with France; and the act of July 7th (Ibid., I. 578) declared the treaties with France void.

The act of May 28, 1798 (Stat. at L., I. 558) had already authorized the President to raise a provisional army; still further increased by acts of July 16, 1798, and March 2, 1799.

The three frigates ordered in 1794 were hastened to completion, 1797-98.

July 7, 1798, vessels of war were instructed to capture armed vessels of France. (Stat. at L., I. 578.) Under this order, the United States vessel Constellation captured the French vessel l'Insurgent.

February, 1799, a bill was passed to retaliate on French prisoners for reported ill-treatment of American prisoners. On the 25th of

the same month another act was passed to increase the navy, providing for the construction of six ships of 74 guns, and six sloops of 18 guns.

Learning that there was a change of opinion in the French government, Adams appointed Murray — United States minister at the Hague — Chief Justice Ellsworth of Connecticut, and Gov. Davie of North Carolina, as a commission to negotiate a treaty; but they were directed "not to enter France until distinct and official assurance had been received of their certain and honorable reception." (Trescot, 200.) Such assurance having been received, the commissioners concluded with Bonaparte — the First Consul — a convention (Sept. 30, 1800), the main provisions of which are as follows: —

1. All treaties between the two countries were declared inoperative (thus confirming the act of 1798).

2. Ships or other property not already condemned by prize courts should be restored.

3. All privileges granted by either party to any nation should be extended to the other (— the "Most Favored Nation" clause).

4. American commerce should not be molested by French cruisers; and free ships were to make free goods (contraband of war excepted).

The second provision after having been assented to by Napoleon, was rejected by the Senate, hence citizens of either country who had lost property had to look to their own government for indemnification. This gave rise in the United States to the "French Spoliation Claims," which have never been paid. (Hildreth, V. 386-389; Schouler, I. 477.)

"This convention (says Trescot, 223) was, in fact, the necessary complement to the treaty with England. They were both the efforts of a nation too weak to hold its own in the face of stronger and unscrupulous powers." After a struggle of seven years the United States had established its right to remain neutral as regards European complications.

After the declaration of war between France and England, and the arrival of Genet in the United States, foreign relations absorbed public attention. The Anti-Federalists and the Federalists were named the French and the British parties, respectively, indicating their different sympathies. Under the influence of Genet, the French party organized democratic societies in imitation

of the Jacobin clubs, for the purpose of protecting American liberty against confederacy and the pride of wealth; and it became fashionable to wear French cockades. During Washington's administration parties were so evenly divided in Congress that frequently questions were decided by the casting vote of the presiding officer. The masses opposed the administration. But the action of Genet and the aggressions of France ensured the support of the administration of John Adams in the passage of retaliatory measures. The Federalists presumed too far, however, upon the support of the people when they passed laws restraining the liberty of the press and of speech [Alien and Sedition Laws] and were defeated in the elections of 1800. The Federal party as such never again came into power. (Hildreth, *negotiations* (1798), V. 123-159 (1799, 1800), V. 284-295, 321-331, 386-89, 398-400; Schouler, I. 344, 351, 355, 386, 430-435; Young, American Statesman, 146, 7, 151-68, 177-83; Von Holst, I. 129-132, 138-142.)

3. Relations with Spain. — The disputes between the United States and Spain had reference mainly to the navigation of the Mississippi River, and the Florida boundary.

By the treaty of 1783, Great Britain stipulated that the navigation of the Mississippi should be free to citizens of the United States; but Spain possessing the territory on both sides of the river at its mouth, refused to allow its free navigation. She also encroached upon the boundaries fixed by the same treaty (the 31° north latitude), occupied Natches and incited the Indians against the United States. In 1793 a war with Spain was imminent, when Thomas Pinckney was appointed a commissioner to proceed to Madrid to endeavor to adjust the disputes and negotiate a treaty. On October 27, 1795, a treaty with that government was contracted. It secured to the United States the navigation of the Mississippi and the right of deposit at New Orleans for three years, and fixed the Florida boundary as it was by the treaty of 1783.

This treaty embodied many of the leading commercial provisions of the previous treaties with France, and with Prussia; free ships were to make free goods; it was expressly stipulated that contraband of war should not include *naval stores* and *provisions;* a commission was authorized to adjust the claims of the citizens of either nation. (Hildreth, III. 464, 5, IV. 134-36, 569, 70; Treaties, 776, 1071; Stat. at L., VIII. 138; Trescot, History of Diplomacy; Jefferson's Works, III.)

4.—In 1787 the United States made a treaty with the *Emperor of Morocco*, securing reciprocal commercial advantages. (Treaties, 588.) But Algiers, Tunis, and Tripoli continued to be troublesome to American commerce (Hildreth, IV. 133); and Congress decided 1792-94) to purchase a peace from the Barbary pirates, but at the same time sent also a naval force to the Mediterranean (Jan. 2. (1794). A treaty was made with Algiers (September 5, 1795; Stat. at L., VIII. 133) by the payment of nearly a million dollars, and a yearly tribute of $24,000. (Hildreth, IV. 566-7.) Treaties of the same nature were made with Tripoli in 1796, and with Tunis in 1797, though at a less cost. It would not have cost much more to have conquered the Barbary powers.

5. Diplomatic Service. — The early provision for the support of the diplomatic service was upon a small scale. The act of July 1, 1790, to provide means of intercourse between the United States and foreign nations, appropriated $40,000 for the support of ministers plenipotentiary and chargés des affaires, the money to be expended by the President at his own discretion, but to account to Congress for the sums expended. (Stat. at L., I. 128; Benton, Deb., I. 242.) This act was to continue two years; it was renewed from time to time. When the treaty with Algiers was concluded, the amount of the appropriation was increased to $1,000,000.

For works on the foreign relations of the United States during this period see: Treşcot, Diplom. Hist. Adminis. of Washington and Adams; "American State-papers," Foreign Relations; also Wait's State-papers for diplomatic correspondence.

V. Miscellaneous Legislation and Events.

1789. — Congress approved and recommended to the states for their adoption sixteen *amendments* to the Constitution, ten of which were ratified by the requisite number of states before 1791. (Hildreth, IV. 112.)

August 7, an Act to provide for the government of the Territory Northwest of the river Ohio. (Stat. at L., I. 50.) This Act adapted to the new Constitution the Ordinance of July 11, 1787, for the government of that territory (Stat. at L., I. 51, note), containing the basis of our present system of territorial government, and by which slavery was prohibited in that region. (See map and Hildreth, III. 527-9.)

Naturalization. The Act of March 26, 1790 (Stat. at L., I. 103) required a residence of two years. Repealed by Act of January 29, 1795 (Stat. at L., I. 414), by which the time of residence was extended to five years, and alien required to have made a declaration of intention to become a citizen at least three years previously (the conditions of the present time). (Cooper, Am. Politics, V. 24. Art. I. Section 8, Cl. 4 of the Constitution.)

Patent Laws. — (Art. I. Section 8, Cl. 8 of Constitution): April 10, 1790, "An Act to promote the progress of the useful Arts" provided that the Secretary of State, Secretary of War, and the Attorney-General, or any two of them, "if they deem the invention useful and important, shall cause letters patent to be issued for a term not exceeding fourteen years." (Stat. at L., I. 109 and note.)[1]

By the Act of July 8, 1870, the Patent Office was transferred to the Department of the Interior; the limit in time extended to seventeen years, with a possible renewal for seven years; the total fees fixed at $35, and the fees for an extension, at $100. (Revised Stat., 953.)

Copyright. — "An Act for the encouragement of learning, May 31, 1790 (Stat. at L., I. 124) secured the copies of maps, charts, and books, to the authors and proprietors of such copies for the term of fourteen years, with a possible continuance of the right for a second term of fourteen years; required that the title of the book, map, or chart should be deposited with the clerk of the United States District Court of the district in which the author resided; and that a copy of the book, map, or chart should be deposited in the Department of State. No copyright would be given except for a book printed in the United States, and to citizens thereof.[2]

"An author has in the United States no exclusive property in a published work except under the federal laws. But the common law protects him against the unauthorized publication of his manuscripts and letters." (Cooley, Const. Law, 84.)

---

1 This and several subsequent acts were superseded by the Act of July 4, 1836 (Stat. at L., V, 117) instituting a Patent Office to be attached to the Department of State and to be superintended by a Commissioner of Patents appointed by the President by and with the advice of the Senate.

2 By the (above) Act of July 8, 1870, the charge and control of copyrights was put in the hands of the Librarian of Congress; and the term was changed to twenty-eight years, with a possible extension of fourteen years. (Rev. Stat., Sect. 4948-71.)

Under the same authority (Art. I. § 8, Cl. 8), Congress passed a law protecting trade marks, July 8, 1878. But the Supreme Court, in 1879, in United States *vs.* Steffens, decided that, since a trade mark is not an invention nor a work of the mind, such acts are unauthorized either by this clause or under the authority to regulate commerce, and hence are void. (Cooper, Am. Politics, VII. 67.)

Among the inventions that early received letters patent, that of the Cotton Gin by Eli Whitney was the most important, both in its usefulness and in the influence which it has indirectly exercised upon the social, commercial, and political history of our country. Though much of the soil of the South was adapted to the cultivation of cotton, this was prevented by the great labor required to separate the seed. The whole cotton crop of the United States in 1791 was 2,000,000 lbs. Whitney's invention so accelerated its cultivation that, in 1800, 19,000,000 lbs. were produced. The increased production of cotton made a great demand for slave-labor. The institution (of slavery) had been unprofitable and was dying. The cotton-gin revived it, made it strong and powerful. (Lossing, Harper's Encyclo. of United States Hist., I. 336, II. 1518.) The demand for slaves increased so rapidly that even the middle or border states, some of which (*e. g.* Virginia) had advocated the suppression of the slave trade and the gradual abolition of slavery, began to raise slaves for the southern market. The growth in the production of cotton is seen as follows:

	Lbs.		*Value.*
1791	2,000,000	$	30,000
1801	48,000,000		
1860	2,500,000,000		$220,000,000

Whitney's patent, obtained in 1793, secured him only $50,000 from the legislature of South Carolina, and, from North Carolina, a percentage for the use of the gin for five years. All this he used in endeavoring to sustain his rights. Congress, through the influence of Southern members, refused him an extension of his patent.

Slavery under the Constitution.—Jefferson had proposed in 1784 the prohibition of slavery in the Southwestern territory. This measure was only lost by the absence of the New Jersey delegation. (Hildreth, III. 449, 50; Greeley, American Conflict, I. 38-40; Von Holst, I. 287.)

In 1787 slavery was prohibited in the Northwestern territory. (Supra, Act of Aug. 7, 1789.)

The recognition of slavery in the Constitution is found in three different clauses: (1) Art. I. Sect. 2, Cl. 3: The representation of three-fifths of the slaves was borrowed from the proposed revenue system of 1783; (2) Art. I. Sect. 9, Cl. 1: This was a compromise, the majority of the convention desiring the immediate prohibition of the slave trade; but Georgia and South Carolina made it a condition of their joining the Union; (3) Art. IV. Sect. 2, Cl. 3. (Greeley, I. 43-48; Von Holst, I. 288-298; Wilson, "Rise and Fall of the Slave Power, I. 40-45.)

Fugitive Slave Act, Feb. 12, 1793. (Stat. at L., I. 302, and note.) By this act fugitives from justice were to be delivered up and carried back for trial on the presentation of a duly authenticated affidavit from the executive of the state from whence they had fled. The person to whom service was due, or his agent or attorney, might seize a fugitive escaped from his service, and carry him before any United States judge, or magistrate of the city, town, or county where the arrest was made, who was, on presentation of proof that the service was due, to give a certificate of the fact, which was sufficient warrant for the removal of the fugitive to the state from which he had fled. A fine of $500, to be recovered by the claimant, was imposed upon any one obstructing the seizure of such fugitive, or harboring him after notice. It is to be noted that the right of personal liberty was here submitted to a summary jurisdiction, without trial by jury, or any appeal on points of law. Most of the free states, considering this law unconstitutional, passed acts forbidding their magistrates from carrying it into execution. It was thus substantially reduced to a dead letter, until revived in 1850. (Hildreth, IV. 406, 7; Von Holst, I. 310-314; Benton, Deb., I. 417, note.)

The first debate in Congress upon the subject of slavery (Feb. 1790) was aroused by the presentation to that body of petitions from the Quakers of Pennsylvania, Delaware, and New York, etc. (Von Holst, I. 89-94; Benton, Deb., I. 207-239; Hildreth, IV. 385-388.) The House decided to commit the petition by a vote of 43 to 11, and finally resolved that Congress had no power (1) over the abolition of the slave trade before 1808, nor (2) to emancipate slaves in the states, nor in any way to interfere in local state affairs.

An Act for the Punishment of Crimes against the United States was passed by Congress April 30, 1790. (Stat. at L., I. 112.) The penalty of death was enacted for treason, murder, piracy, and forgery of the securities of the United States. For this last, fine and imprisonment have been since substituted. In cases of conviction no forfeiture of estate or corruption of blood was to ensue. To enforce the rule of international law granting immunity to embassadors and their suites, it was enacted that any suit brought against such persons, either in the Federal or state courts, should be deemed utterly null and void. (Constitution: Art. III. Sections 2-3. For definition of treason see case of *ex parte* Bollman and Swartwout, Appendix; Cooley, Const. Law, 91, 287-8; Revised Stat., Sections 5323-38, 5413-80.)

Indian Affairs. — By the act of July 22, 1790, Congress appropriated $20,000 for the expense of negotiating treaties with Indian tribes, and provided for the appointment of commissioners for managing the same. On the same day an act was passed for the regulation of trade with the Indians. No one could trade with them without a license from the President. Made more strict by the Act of May 19, 1796. No white man was to enter the territory of the Indians without a permit; and public trading houses were established. (Stat. at L., I. 137, 469.)

It was not till July 9, 1832, that the separate bureau of Indian Affairs, with a commissioner, was established; at first under the direction of the Secretary of War, but transferred to the Department of the Interior by Act of July 27, 1868. (Revised Stat., Sections 462-469.)

The Indians of the Northwest having attacked the settlers in that region, General Harmar was sent against them, and suffered a defeat in October, 1790, in Western Ohio. General St. Clair — a Revolutionary officer—was next sent out, and he too was defeated by the Indians, November 1, 1791, with a loss of 900 men. General Anthony Wayne superseded St. Clair in the command, and entirely subdued the Indians by a victory over them on the Maumee August 20, 1794.

These wars were of most importance in their effect upon the policy of the Government. The Federalists had made provisions for the payment of the public debt, and had organized a sinking fund for that purpose. But the expenses of these wars, with other unforseen events, so retarded the scheme that little of the debt was paid during the administrations of Washington and Adams; and

this was one of the charges against the Federalists. (Hildreth, IV. 247-9, 281-7, 443-6, 520-22; Schouler, I. 191-98, 280-83.)

Organization of the Militia. — Under the authority of the Constitution, Art. I. Sect. 8, Cl. 16, 17, Congress passed an act providing for the organization, etc., of the militia, May 8, 1792. (Stat. at L., I. 271.) Every able-bodied man between the ages of 18 and 45 (except those expressly exempted) was to be enrolled in the militia according to the rules of the several states. This act remains still as the general regulation of the militia, modified, however, by the action of the several states. The Act of May 8, 1795, provided for the calling out of the militia by the President. (Stat. at L., I. 424.) See also Revised Stat., Sect. 1642, and for the existing laws in regard to the militia, Revised Stat., Sections 1625-1661.

The President was authorized to call out the militia of the states in case of invasion of any foreign nation or Indian tribe, of insurrection against the authority of a state. on application of the legislature or governor, and in case of opposition to the laws of the United States. The President may issue his orders to the executives of the states or directly to the militia officers. The term of service was not to exceed three months (by the act of July 17, 1862, extended to nine months). (Revised Stat., Sect. 1648.) By Act of March 2, 1867, militia officers, when on service with regulars or volunteers, "take rank next after the officers of like grade in said regular or volunteer forces." (Rev. Stat., p. 241, Art. 124; Hildreth, IV. 310-12; Cooley, 88.)

Postal Service established by Act of February 20, 1792. (Stat. at L., I. 232.)

The Apportionment of Representatives under *the first census* was made April 14, 1792. (Stat. at L., I. 253, and see table in Appendix.)

Presidential Elections. — By the Act of March 1, 1792 (Stat. at L., I. 239) the electors of President and Vice-President were to be appointed in such manner as the state legislatures might prescribe, within thirty-four days preceding the first Wednesday in December; changed by the Act of January 23, 1845, to the Tuesday next after the first Monday in November (except in the case of a vacancy). (Revised Stat., Sections 131 and 147-49.)

In the case of the removal for any reason of both the President and Vice-President, various suggestions were made as to the person to fill the vacancy temporarily: The Chief Justice, the President

pro tempore of the Senate, the Secretary of State, and Secretary of the Treasury, were named. The President *pro tem.* of the Senate and in case there were none, the Speaker of the House, were fixed upon to act till the removal of the disability or a new election. In case of the necessity of such election, the Secretary of State shall notify the executives of the respective states, and "if there shall be the space of two months yet to ensue between the date of such notification and the first Wednesday in December then next ensuing, such notification shall specify that the electors shall be appointed or chosen within thirty-four days preceding such first Wednesday in December." If there be not two months, etc. . . . . and the term of the President and Vice-President last in office will not expire on the third of March ensuing, then the electors shall be chosen, with the same conditions as to the time, the year next ensuing. If there be be not two months, etc. . . . . as above mentioned, and the term of the President and Vice-President last in office expire on the third of March next ensuing, then there shall be no new election. The act also fixed the 4th of March as the day on which the presidential term should begin. (Revised Stat., 131-151; Cooley, 51 and note 4.)

Electors at first were chosen in four ways: (1) By joint ballot of both houses (of the legislature); (2) By concurrent vote of both houses; (3) By the people voting a general ticket (the method now in use); (4) By the people voting by districts. The last method, at first adopted by Massachusetts and Virginia, the states having the largest population, though favoring a full expression of public opinion, was abandoned by them in 1800, because it rendered the success of one party throughout the state almost impossible. "The theory of the Constitution is that there shall be chosen by each state a certain number of its citizens, ... who shall *independently* cast their suffrages for the President and Vice-President of the United States . . . . This theory was followed in the first three presidential elections. . . . In practice (now), the persons to be voted for are selected by popular conventions in advance of the choice of electors, and these officers act as mere automata in registering the will of those who selected them." (Cooley, Const. Law, 142; Hildreth, IV. 324-6.)

The Whiskey Insurrection of 1794. — Resistance to the excise on domestic spirits had begun soon after the excise law was passed, chiefly in North Carolina and the four western counties of Pennsylvania. A convention was held at Pittsburg on August 21,

1792, of which Gallatin was secretary; resolutions were drawn up denouncing the excise, and declaring the intention to persist in every "legal measure" that might obstruct the collection of the tax. On September 29, the President issued a proclamation, exhorting all persons to desist from unlawful combinations. But the opposition continued in Western Pennsylvania, so that it was impossible to collect the tax. (Hildreth, IV. 373-76; Schouler, I. 215, 16.) In July, 1794, active measures were taken for the enforcement of the law. The officers were assaulted by mobs; and finally the rioters collected an organized army of several thousand men. On August 7, Washington issued a proclamation to the opposers of the law to desist, and a requisition to the governors of Pennsylvania, New Jersey, Maryland, and Virginia, for a body of 13,000 men, raised afterward to 15,000. The men, with some reluctance, marched against the malcontents September 24th, and the insurrection was quelled without bloodshed.

At first some of the Anti-Federalist leaders encouraged the opposition to the excise tax; and later were opposed to the employment of the militia in the suppression of the rebellion. This first successful trial of strength of the new government tended to its credit both at home and abroad. (Von Holst, I. 94-104; Hildreth, IV. 498-516; Schouler, I. 275-280.)

The Redemption of the Debt. — By the Act of April 28, 1796, "the management of the debt was taken from the Treasury Department and vested in commissioners of the sinking fund. The duties on imports were made permanent, and the temporary taxes continued to March 1, 1801. From these sources the debt could be cancelled, it was estimated, within twenty-three years. (Hildreth, IV. 536-8.) The increased expenses on account of the hostilities with France (1797-1808) prevented, during the administrations of Washington and Adams, the realization of this expectation. (See for other acts and plans for the creation of a sinking fund and payment of the debt: Stat. at L., I. 144, 186, 282-3, 214, 433-8, 458, 562; Hildreth, IV. 219, 388-91, 537-8; Schouler, I. 286.)

Direct Taxes. — By the Act of July 9, 1798, a tax was levied upon lands, houses, and slaves. (Stat. at L., I. 580; Hildreth, V. 224.)[1]

1 Similar acts were passed July 22, 1813, and Jan. 9, 1815. (Stat. at L., III. 22, 164.) The tax upon carriages levied by Congress in 1794 was held by the Supreme Court not to be a direct tax within the meaning of the Constitution. (The case of Hylton *v.* the United States: Marshall's Writings, 489; Cooley, 62; Kent, Commentaries, I. 256.)

Impeachment. — The first case of impeachment under the Constitution was that of William Blount, Senator from Tennessee (1798). Blount was expelled from the Senate for taking part in a conspiracy to invade the Spanish territory. The House presented articles of impeachment, and the trial came on in December, 1798. Blount's counsel filed a plea denying the jurisdiction of the impeachment court on two points: (1) That Senators were not "civil officers" of the United States, liable to impeachment. (Const., Art. II., Sect 4); (2) That Blount, having been expelled from the Senate was not now triable, even as a Senator. The Senate sustained the plea, probably on the first point. (Story, §§ 789-791, and on the general subject of impeachment, §§ 741-811; Hildreth, V. 88, 187, 281; Schouler, I. 364, 5; Cooley, 158, 9; see also an article in "The Nation" of August 10, 1882, on "What is an Officer?")

Bankruptcy. — The Act of April 4, 1800, established a uniform system of bankruptcy throughout the United States. It was extended, however, only to merchants and traders. (Stat. at L., II. 19; Hildreth, V. 346, 7; Schouler, I. 456.)

The states may legislate upon this subject in the absence of uniform regulations imposed by Congress. (Cooley, 78.)

The Navy.—Congress provided by the Act of March 27, 1794, for the construction of four ships of war carrying forty-four guns and of two carrying thirty-six guns. (Stat. at L., I. 350; Hildreth. IV. 480.) These ships were not immediately constructed. A supplementary act, April 20, 1796, appropriated money for the completion of three frigates; and as war with France seemed probable, the navy was soon increased to six frigates, twelve sloops of war, and six smaller vessels. Three of these frigates, the Constitution, United States, and Constellation, were launched early in 1798, and did good service.

On account of the increasing importance of the navy, a separate executive department was created April 30, 1798, for naval affairs. The first Secretary of the Navy was Benjamin Stoddard, of Maryland. (Stat. at L., I. 553; Hildreth, V. 206, 222; Cooper, Naval History of the United States, Vol. I.)

The Alien and Sedition Laws. — (1) The "Act *concerning aliens*" of Jan. 25, 1798 (Stat. at L., I. 570) provided "that it shall be lawful for the President of the United States . . . . to order all such aliens as he shall judge dangerous to the peace and safety of the United States, etc. . . . . to depart out of the territory . . . .

within such time as shall be expressed within such order." In case of non-compliance, an alien might be "imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States." The President was authorized to grant licenses to aliens to remain within the territory of the United States on the conditions which he might exact.

The President was also empowered to order the removal (*i. e.*, by force) of aliens imprisoned under this act, or those refusing to depart in accordance with orders. And should such aliens voluntarily return "they shall be imprisoned so long as, in the opinion of the President, the public safety may require."

The Circuit and district courts were to have jurisdiction over offences against this act; and marshals and other officers of the United States were to execute the orders of the President in respect to such offences. The Circuit Court decided that when once a rule of action had been established, in all similar cases marshals could act under an *implied* order from the President.

This act referred to aliens in time of peace. An act respecting *alien enemies* in time of war, was passed July 6, 1798. (Stat. at L., I. 577.) In case of war or threatened invasion, the citizens or subjects of the hostile government were to be liable to apprehension and removal. Time was to be allowed for their departure, unless the public safety would be endangered thereby. [1]

The Sedition Act [2] declared it to be a public crime, punishable with fine (not exceeding $2,000) and imprisonment (not exceeding two years), for any persons to unlawfully combine and conspire together with intent to oppose any measure of the United States, or with such intent to aid in procuring any insurrection, or to write, print, utter, or publish, or to procure to be written any false, scandalous, and malicious writings against the Government of the United States, or either House of Congress, or the President, with intent to defame them or to stir up sedition, or to organize or aid in organizing resistance to any law, or to any lawful act of the President, or to aid any hostile designs of foreign nations against the United States.

---

1 This was in accordance with the rule of the law of nations. The present custom is, not to molest alien enemies so long as they remain peaceable. A noted exception to this custom took place in the expulsion of the Germans from Paris in 1870.

2 The *Sedition Act* was passed July 14, 1798 (Stat. at L., I. 596), and was entitled an "Act in addition to the 'Act for the punishment of certain crimes against the United States.'" The act referred to (Ibid. I., 112, passed April 30, 1790) fixed the penalties for treason, &c. (*Supra.*, p. 54.)

Sect. 3 provided that a person accused under this law could "give, in evidence in his defence, the truth of the matter contained in the publication charged as libel." The act was to continue in force till March 3, 1801. Objection was made to the Alien Act that it was unconstitutional, in interfering with the trial by jury and with the right of the states to admit, prior to 1808, foreigners without any restriction. In regard to the acts concerning aliens, they were never carried into effect. (Hildreth, V. 216; Schouler, I. 394, 420; Benton, Deb., II. 280-6.) But it was considered as unwise to vest such unlimited and arbitrary power in the hands of the executive.

As to the Sedition Act, the Anti-Federalists (Republicans) maintained that the Federal courts had no common law jurisdiction in criminal cases; and not having the jurisdiction over sedition and libel (common law offences) expressly granted to them by act of Congress, they therefore had none at all.

Although the question did not immediately come before the Supreme Court, the law was sustained by the Circuit Court in several cases; and all the justices of the Supreme Court, except Chase, believed in the constitutionality of the law. (Hildreth, V. 230.)

At a later time the Supreme Court decided, however, that the Federal Courts had no common law jurisdiction in criminal matters. (Case of the United States *v.* Hudson & Goodwin, 7 Cranch, 32; Kent, I., 332-341; Cooley, 130-31.)

Aside from the question of the constitutionality, this law was certainly inexpedient, and contrary to the spirit if not the letter of the Constitution. The masses opposed it; and mainly on this account the Federalist party was defeated in 1800. (Hildreth, V. 225-233; Schouler, I. 396-99; Cooley, 94, 95; Adams, Life of Gallatin, 203-209; Young, American Statesman, 170-72; Von Holst, I. 142, 3; Tucker, II. 74 *et seq.*)

The prosecutions under the Sedition Law are given in Wharton's State Trials. See also Hildreth, V. 247-50 (Trial of Mathew Lyon), 365, 6, (Trial of Holt and Cooper), 367, 8, (Trial of Callender); Schouler I. 421, 449.

These laws were the immediate incitement to the Kentucky and Virginia Resolutions of 1798-9, passed by the legislatures of those states, respectively. The Virginia Resolutions of Dec. 21, 1798 (Elliot's Deb., IV. 528; Writings of Madison, IV. 506), drawn up by Madison, "after avowing a firm attachment to the Constitu-

tion, and a determination to support it, declare that the legislature 'views the powers of the Federal Government as resulting from the *compact* to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are the parties thereto, have the right and are in duty bound to *interpose* for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.'" That the Alien and Sedition Acts were such infractions of the compact; . . . . and finally that the state of Virginia declared those laws unconstitutional, *and not law*, *but utterly null*, *void*, *and of no effect*, and appealed to the other states to join in this declaration. The above words in italics were struck out in the house of delegates.

Of the Kentucky Resolutions, drawn up by Jefferson, there were two sets: the first of which, November 10, 1798 (Elliott's Deb. IV. 540; Jefferson's Works, IX. 464), after declaring that the Constitution was a compact between the states and the government founded by it, proceeded to assert that "this government, created by this compact, was not made the *exclusive* or *final* judge of the extent of the powers delegated to itself, since that would have made *its* discretion, and not the Constitution, the measure of its powers, but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress"? The second, passed in the following year (November 14), declared "that a *nullification* by the states of all unauthorized acts done under color of the Constitution is the rightful remedy."

Jefferson's authorship of the Kentucky Resolutions was not generally known till many years afterward. In reply to Taylor of Virginia, who thought "that it was not unwise now to estimate the separate mass of Virginia and North Carolina with a view to their separate existence," Jefferson had written, June 1, 1798, "that it would not be wise to proceed immediately to a disruption of the Union when party passion was at such a height." "Considering these views it is not to be wondered at that, in consequence of the Alien and Sedition laws, Jefferson began to see the question in a new light." (Von Holst, I. 143.)

The Virginia Resolutions were sent to the legislatures of the other states, but met with no favorable response. (Elliot's Deb., IV.)

It was because of this unfavorable reception that the Kentucky Resolutions were passed, and that Madison's Report (Feb. 1800) on the Virginia Resolutions was made to the legislature of Virginia. It is an able and exhaustive argument for the resolutions and indirectly for nullification (though this word is not employed in the report). It gave Calhoun in 1830, 2 the basis for his argument in defence of State rights. Madison examines mainly THREE QUESTIONS: (1) "Whether indications have appeared of a design to expound certain general phrases (*e. g.*, "of providing for the common defence and general welfare") copied from the 'Articles of Confederation,' so as to destroy the effect of the particular enumeration explaining and limiting their meaning; (2) Whether this exposition would, by degrees, consolidate the states into *one* sovereignty; (3) Whether the tendency and result of this consolidation would be to transform the republican system of the United States into a monarchy." (Writings of Madison, IV. 515-55; Elliott's Deb., IV. 546-80.)

Mr. Madison strongly protested against the use made of his resolution and reports (of 1798-1800) by the nullifiers of 1830-33; and wrote a great number of letters to leading statesmen endeavoring to prove that the principle of nullification was not involved in the Virginia Resolutions of 1798. See especially his letter to Edward Everett, of August, 1830 (Writings, IV. 95; other letters in the same volume, pp. 166, 204, 225, 228, 231, 269, 335, 395, 425).

On the early influence of these resolutions, see the speech of Hayne in the debate between him and Webster. He quotes Jefferson as his "high and imposing authority in support of the Carolina Doctrine." (C. K. Adams, Manual of Historical Literature, p. 611.)

Von Holst has carefully considered the subject of these resolutions and the connection of Jefferson and Madison therewith in Volume I. pp. 143-167. See also: Hildreth, V. 272-77, 319, 20; Schouler, I. 422-425 and note to 424; Adams, Life of Gallatin, 211-12; Tucker, Vol. II.; Cooley, Constitutional Law, 95, 96.

VI. Presidential Elections and Political Changes.

In 1792, Washington was for the second time unanimously chosen President. John Adams, receiving 77 votes, was elected Vice-President, in opposition to George Clinton, the Anti-Federalist candidate. (Appendix, p. 37.)

Cabinet Changes. — Jefferson resigned Dec. 31, 1793, and was succeeded by Edmund Randolph, the Attorney-General, William Bradford of Pennsylvania succeeding Randolph in the Department of Justice; and on Bradford's death the next year this position was given to Charles Lee of Virginia.

At the end of the year 1794 Hamilton resigned, and on his own recommendation was succeeded as Secretary of the Treasury by Oliver Wolcott, the Comptroller in that department. Knox retired from the War Office at about the same time, and was succeeded by Timothy Pickering, of Massachusetts, who had been Postmaster-General since 1791. (Hildreth, IV. 538; Schouler, I. 286-88.)

Randolph resigned in 1795, having been charged with using his influence against the Jay Treaty, and with an attempt to obtain money from the French Minister, Fauchet. (Von Holst, I. 119, 120; Hildreth, IV. 556; Schouler, I. 296-301.) The office of Secretary of State having been declined by several gentlemen was finally accepted by Timothy Pickering, the Secretary of War. The War Department was given to James McHenry of Maryland.

By these changes the Cabinet was reduced to statesmen of secondary ability. (Schouler, I. 301-304; Hildreth, IV. 570, 71.)

It was difficult to get the best men to serve in Congress or in the Cabinet. Jefferson retired partly because his official acts were in the main opposed to his convictions, and partly because he desired more effectively to exercise the leadership of his party than was possible as a cabinet officer. Resigning soon after his brilliant correspondence with Genet, he retired with much *éclat*.

Hamilton's retirement was due in part to the growing opposition to his measures, and in part to a desire to attend to his private affairs. The Republican majority had questioned his integrity, and the custom had arisen of referring to committees all important questions of finance and government. The leading measures of this session (1794-5) — for the gradual redemption of the public debt — was based, though with many changes, upon Hamilton's

Report. The management of the public debt was taken from the Treasury and vested in Commissioners of the Sinking Fund. The temporary duties were made permanent, and the excise tax was continued until 1801. (Hildreth, V. 536-8.)

Claims of all sorts had been referred to the Treasury Department, though they did not properly belong there. Hamilton remonstrated against the practice, and a standing committee on claims was instituted (Nov. 1794).

Gallatin "brought forward a resolution, Dec. 17, 1795, for the appointment of '*a committee to superintend the general operations of finance.*' . . . This is the origin of the standing committee of Ways and Means, the want of which hitherto he ascribed, it seems, to Mr. Hamilton's jealousy of legislative supervision. A committee of fourteen was elected by the House." (Adams, Life of Gallatin, 157, 172.)

The election of 1796 was closely contested and resulted in the election of John Adams as President and Thomas Jefferson as Vice-President. (Appendix, p. 37.)

Many leading Federalists would have preferred the election of Jay, or at least some other than Adams. They perceived him to be headstrong, and to follow his honest convictions regardless of party interests. But Adams' long public service and patriotic ardor had given him a strong hold upon the favor of the masses, whilst Jay was just at that time unpopular on account of his authorship of the British Treaty.

The Federalist leaders adopted a plan by which Thomas Pinckney, nominally selected for Vice-President, was to be brought in ahead of Adams, by drawing to himself some Southern votes. This plan failed, but it caused Adams to withdraw his confidence from the Federalist leaders, and inaugurated those intrigues which hastened the downfall of the party.

The sectional distribution of parties was quite marked; Adams carried nearly all of the Northern States, while the South was mainly Republican. (Schouler, I. 327-8, 334, 5; Hildreth, IV 687-91; Von Holst, I. 133-34.)

Much fault was found with the method of election, by which it was possible that the President should be of one political party and the Vice-President of the other; but no change was made until after the succeeding presidential election.

Adams followed Washington's policy; and continued the Cabinet unchanged. (Hildreth, V. 25-42; Schouler, I. 341-44.)

Foreign relations — especially with France — were the principal concern of this Administration. The rejection of Pinckney, and the X. Y. Z. correspondence, aroused great indignation against France, and brought about a reaction among the masses in favor of the Federalist administration. An increase of the army and navy was voted with little opposition. But feuds within the Federalist party counteracted the effect of these movements.

After the failure of the first mission to France and the ill-treatment which it received, Adams declared that no other commission would be sent until the French Government gave assurance that it would be received and negotiations be begun. Soon, however, Van Murray — the United States minister at the Hague—informed the President that France had given such assurance, and thereupon, though preparations for war were in progress, and without consulting his Cabinet or any one else, Adams determined to send another commission to France, and nominated Van Murray as minister plenipotentiary to that country. This aroused great indignation and opposition among the Federalists. They asserted that Adams had no authority to send a second commission, and that, after the insults received from France, further negotiations would be a humiliation to the United States. The Federalists were greatly incensed by this action of Adams, and the nomination was likely to be rejected by the Senate. But on the addition to the commission of Chief-Justice Ellsworth and Governor Davie of North Carolina the nominations were confirmed. The members of the Cabinet felt grieved, however, at not being consulted in the matter, and thus the President and his advisers were no longer in accord. (Hildreth, V. 324; Schouler, I. 430-35.)

The cabinet plot, however, which caused an open breach, occurred in regard to the selection of the leading officers of the provisional army, raised in view of a war with France. All were agreed in the selection of Washington for the chief command. For the second place (or first Major-General), Adams favored Knox, but the Cabinet, especially Pickering, Wolcott, and McHenry, favored Hamilton. In the absence of Adams, Washington was induced to make the selection of Hamilton as second in command a condition to his own acceptance of the chief command. Adams was thus compelled to yield, and Knox and C. C. Pinckney were given the subordinate positions. Knox, a general of the Revolution, declined to serve under Hamilton.

After this affair Adams neglected as much as possible the army, and gave all his attention to the strengthening of the navy. (Schouler, I. 404-411; Hildreth, V. 240-44.)

In May, 1800, Adams dismissed Pickering and McHenry from his Cabinet, and appointed John Marshall Secretary of State, and Samuel Dexter, of Massachusetts, Secretary of War. At the end of the year Wolcott retired and Dexter was transferred to the Treasury Department. The War Office remained vacant during the rest of the presidential term. (Hildreth, V. 370; Schouler, I. 466.)

In the presidential election of 1800 Adams and C. C. Pinckney were again the Federalist candidates; Jefferson and Burr were the Republican candidates.

The Federalist party had lost ground by its advocacy of the Alien and Sedition laws, as well as by the secret feuds of its leaders.

A plan was again laid to defeat Adams, this time by securing an equal number of votes for Adams and Pinckney, and thus throwing the election into the House of Representatives. Adams, aware of these intrigues, strongly denounced his Federalist opponents, under the name of the "*Essex Junto*,"[1] as a faction devoted to England; Hamilton wrote in reply a pamphlet to show up the defects of Adams' character. (Schouler, I. 471; Hildreth, V. 383.)

The election was in favor of the Republicans (Appendix, 37), but Jefferson and Burr receiving the same number of electoral votes, the choice devolved upon the House, in which there were now sixteen states represented. As the Federalists could make a tie, and thus prevent an election, it was proposed by Pickering and other extreme Federalists to elect Burr. This would have defeated the will of the people, whose intent clearly had been that Jefferson should be President. Hamilton opposed this scheme, believing that the election of Burr would be a calamity to the country. He trusted Jefferson not to attempt radical changes in the Government, and advised that assurances be obtained from him: (1) To preserve the fiscal system; (2) To adhere to the policy of neutrality; (3) To continue the naval policy; (4) To retain the Federalists in the subordinate offices. (Works, VI. 420; Von Holst, I. 178; Schouler, I. 461-74, 480-88; Hildreth, V. 389-91, 402-8.)

[1] For an account of the Essex Junto, see Lodge's Life of Cabot, 17-22; also Schouler, I. 469. At this time it was understood to include Parsons, Ames, Cabot, Higginson, Pickering, Lowell, and others.

After thirty-five ballots, the Federalists in caucus decided to allow the election of Jefferson (February 17, 1801). (Young, American Statesman, 188-9, 191-95.)

Thus after twelve years of power the Federalists were superseded by the Republicans. "That party had done its greatest and fittest work by the time it had accomplished its earliest, namely, that of framing and establishing the more perfect Union, which, with later changes, has stood ever since secure." It had "established the public credit, developed the resources of a new nation, concluded peace with the Indians and European countries, and raised the United States to a respectable position before the world .... but now the time had come when political nurses could be dispensed with, and a healthy, robust public opinion allowed an opportunity to develop." (Schouler, I. 500-501.)

"From the first moment that party lines had been distinctly drawn the opposition had possessed a numerical majority, against which nothing but the superior energy, intelligence, and practical skill of the Federalists, backed by the great and venerable name and towering influence of Washington, had enabled them to maintain for eight years past an arduous and doubtful struggle. The Federal party, with Washington and Hamilton at its head, represented the experience, the prudence, the practical wisdom, the discipline, the conservative reason and instincts of the country. The opposition, headed by Jefferson, expressed its hopes, wishes, theories, many of them enthusiastic and unpracticable, more especially its passions, its sympathies and antipathies, its impatience of restraint. The fall of the Federal party was hastened by its passage of the Alien and Sedition laws, by the increase of taxation and by the treaty with France. "But though the Federal party thus fell never to rise again, it left behind it permanent monuments. The whole machinery of the Federal Government, as it now operates, must be considered as their own work." (Hildreth, V. 417-18; Von Holst, I. 135-7, 177-82.)

The Federalists found it difficult to accept defeat, and every possible effort was made to perpetuate the system of government established by them. As a principal means toward this end, the Federal judiciary was to be strengthened so as to act as a bulwark against Anti-Federalism. The judiciary act of February 13, 1801 (Stat. at L., II. 89), reduced (as fast as vacancies occurred) the number of justices of the Supreme Court to five, and released them

from all circuit duty. It also increased the number of the district courts from fifteen to twenty-three. These were grouped into six circuits with three circuit judges in each (except the 6th).

Adams, just before the close of his term, appointed these new judges and all the subordinate officers of the courts. As these judges held office for life, it was expected that Federalism would be preserved by them. (But the next year the act was repealed by the Republicans, and the judges were thus legislated out of office.) Ellsworth had resigned the Chief-Justiceship on account of ill-health, and the President had conferred that responsible post upon John Marshall (January 31, 1801). Marshall continued, notwithstanding his new office, to discharge the duties of Secretary of State. (Hildreth, V. 402; Schouler, I. 489-90.)

The appointment of Marshall as Chief-Justice was a fortunate event in the history of the United States. To the duty of interpreting the Constitution he brought his great and just powers of reasoning, as well as those broad views of government, which, during the thirty-four years of his judicial career, gave to the Constitution those liberal powers which were necessary to its durability. "The Constitution," says Mr. Justice Story, "since its adoption owes more to him than to any other single mind, for its true interpretation and vindication." And "his proudest epitaph may be written in a line — '*Here lies the expounder of the Constitution of the United States.*'"

CHAPTER III.

Administrations of Jefferson and Madison, 1801–1817.

I. Jefferson's First Administration.

The election of Jefferson did not produce so great a change in domestic politics as most of the Federalists had anticipated. He substituted, in the Executive office, Republican simplicity in place of the pomp and ceremony of his predecessors; but as to his theories, many of them personal to himself, it would have been impossible, if he had desired it, to put them into practice. While in opposition, he had counselled the most extreme measures against the acts of the Federalist Congress. Once having attained, however, to the highest office in the gift of the nation, he became more moderate in his political views. Thus in his inaugural he says: "All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable." .... "Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things." .... "We have called by different names brethren of the same principle, we are all Republicans, we are all Federalists."

About to enter, he says, upon the exercise of the highest public duties, he expresses what he considers the essential principles of government. The most important of which are: "Equal justice to all, peace, commerce, and friendship, with all nations, entangling alliancies with none; the support of the state governments in all their rights as the most competent administrators for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people; a mild and safe correction of abuses which are lopped by the sword of revolution when peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority — the vital principle of republics, from which there is no appeal but to force, the vital

principle and immediate parent of despotism; a well-disciplined militia — our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and the arraignment of all abuses at the bar of public reason; freedom of religion; freedom of the press; freedom of person under the protection of the *habeas corpus;* and trial by juries impartially selected. (Statesmen's Manual, I. 149-52; Jefferson's Works, IV. 364; Von Holst, I. 177, 8; Young, Am. Statesman, 196-8.)

In regard to the foreign policy of the government, he thought "that America, standing outside of the political movement of Europe, could afford to follow a political development of her own; that she might safely disregard remote dangers; that her armaments might be reduced to a point little above mere police necessities; that she might rely on natural self-interest for her foreign commerce; that she might depend on average common sense for her internal prosperity and order; and that her capital was safest in the hands of her own citizens. To establish these doctrines beyond the chance of overthrow was to make democratic government a success, while to defer the establishment of these doctrines was to incur the risk, if not the certainty, of following the career of England in debt, corruption and rottenness." (Adams, Life of Gallatin, 269.)

The first and greatest object of Mr. Jefferson's policy was, however, the payment of the public debt. "The discharge of the debt," he wrote, "is vital to the destinies of our Government." And all else must be *subordinate* to this. To this object Mr. Jefferson and his Secretary of the Treasury, Mr. Gallatin, devoted themselves, to the neglect of the proper defence of the country. The carrying of this laudable principle to extremes, was mainly the cause of the failure of their whole governmental policy. When Mr. Jefferson came into office the country was at peace with all other nations, and for the success of his policy a continuance of peace was necessary; but it was a mistake not to make some provision for other contingencies. (Adams, Life of Gallatin, 269-274; Hildreth, V. 419-22; Schouler, II. 1-5.)

Mr. Jefferson selected for his cabinet: —

James Madison, Secretary of State; Albert Gallatin, Secretary of the Treasury; Henry Dearborn, Secretary of War; Robert Smith, Secretary of the Navy; Levi Lincoln, Attorney-General; Gideon Granger, Postmaster-General. (Hildreth, V. 422, 3; Schouler, II. 12.)

Appointments and Removals. — Rotation in office had been a principle put in practice during the Confederation, and advocated later by the Republicans. When Mr. Jefferson became President the pressure for sweeping removals was very great. In such cases there is always a certain amount of hatred engendered by seeing the *enemy* possessed of the vantage ground which the offices give. But a still more active sentiment in the breasts of the lower class of politicians is the "greed of office," for the sake either of the emoluments or the political power which they give. A president naturally finds it very difficult to make a stand against this pressure of his friends — men by whose aid he has triumphed over the opposite party. Mr. Jefferson thought it would not be politic for him to resort to sweeping removals, whatever may have been his private inclination in this respect. He preferred rather a conciliatory policy; he wished to please the rank and file of the Federalists, and to draw them away from their allegiance to the Federalist leaders. This could not be done by a policy of "*val victis*"! (Von Holst, I. 178.) "That some ought to be removed from office," says Mr. Jefferson (Works, IV. 380), "and that all ought not, all mankind will agree. But where to draw the line no two will agree." "Interference with elections, whether of a state or the General Government, by officers of the latter, should be deemed causes of removal." (Tucker, Life of Jefferson, II. 78, 91-94; Jefferson's Works, IV. 350.)

It was further agreed, (1) That all appointments to civil offices during pleasure, made after the event of the election was certainly known to Mr. Adams, are considered as nullities; (2) Officers who have been guilty of official mal-conduct are proper subjects of removal; (3) Good men, to whom there is no objection but a difference of political principle, practised on only as far as the rights of a private citizen will justify, are not proper subjects of removal, except in the case of attorneys and marshals. The courts being so decidedly Federal and irremovable, it is believed that Republican attorneys and marshals, being the doors of entrance

into the courts, are indispensably neeessary as a shield to the Republican part of our fellow eitizens . . . . the main body of the people." It was said that Adams continued to sign the commissions of court officers up to 9 o'clock of the night on which at 12 o'cloek his term of offiee expired. Such officers were ealled "Midnight Officials." Those appointed who did not have time to get their commissions of Adams were denied them by the new administration.

March 4, Jefferson wrote to Rush: "I will expunge the effeets of Mr. Adams' indeeent conduet, in crowding nominations after he knew they were not for himself. . . . . I know that in stopping thus short in the career of removal I shall give great offence to many of my friends. That torrent has been pressing me heavily, and will require all my force to bear up against." Again (Works, IV. 391): "*The right of opinion shall suffer no invasion from me.* Those who have aeted well have nothing to fear, however they may have differed from me in opinion." Again (Ibid. 399): "We are proeeeding gradually in the regeneration of offiees, and introdueing Republicans to some share in them." (Hildreth, V. 426-30; Young, 199-201.)

One of the first eases of removal from office was that of Goodrieh, the Collector of New Haven. His predecessor had died a short time before the expiration of Mr. Adams' term, and Goodrich had been immediately appointed to fill his plaee. "The President thought this was a fit occasion to begin by giving the Republican party a share of the public offiees, and accordingly bestowed this on Samuel Bishop, then Town Clerk, Mayor of the City of New Haven, and Chief Judge of the Court of Common Pleas. . . . . By reason of the advaneed age (77 years) of Bishop, and the popularity of Goodrieh, this aet of the Administration gave great offence to the merchants, who sent a vehement remonstrance to the President on the oecasion." The President wrote in reply the famous New Haven Letter: "If a due participation of offiee is a matter of right, how are vacancies to be obtained? Those by death are few, by resignation none. Can any other mode than that of removal be proposed? This is a painful office. But it is made my duty. . . . . It would have been to me a eireumstanee of great relief had I found a moderate participitation of office in the hands of the majority. . . . . But their total exclusion ealls for prompter eorreetions . . . . but that done, I will return with joy to that state of

things when the only questions concerning a candidate shall be: Is he honest? Is he capable? Is he faithful to the Constitution? At another time he said: "That the Republicans would consent to a continuation of everything in Federal hands, was not to be expected, because neither just nor politic. On him (the President) then was to devolve the office of an executioner, that of lopping off. . . . . I am satisfied that the heaping abuse on me personally, has been with the design and the hope of provoking me to make a general sweep of all Federalists out of office." (Tucker, Life of Jefferson, II. 101-2.)

"This, however, did not satisfy. The Federalists enumerated (several) . . . . meritorious officers of the Revolution, and falling within none of Jefferson's rules, yet all removed to make room for political partisans, in one case for an old Tory." (Hildreth, V. 431.) The Republicans in reply called attention to the large majority of offices still in the hands of Federalists.

Gallatin from the first urged, as he said in his circular to collectors, "that the door of office be no longer shut against any man merely on account of his political opinions, but that . . . . integrity and capacity suitable to the station be the only qualifications that shall direct our choice." Still he seems to have adhered to the sentiment of the New Haven letter. The above circular was sent to Jefferson, but, he and Madison thinking that it was premature, it was never issued; and "the time never came when they thought it had reached maturity." (Adams, Life of Gallatin, 279.)

But Gallatin continued to remonstrate: "It does not appear that less than what has been done could have been done without injustice to the Republicans. But ought much more to be done . . . . those Republican principles of limitation of power and public economy . . . . should rest on the broad basis of the people, and not on a fluctuating party majority." Jefferson in reply wrote: "It (N. H. letter) has given more expectation to the sweeping Republicans than I think its terms justify . . . . it was *indispensably necessary in order to rally round one point all of the shades of Republicanism and Federalism, exclusive of the monarchial.*"

In the case of Rodgers, however, the naval officer in New York, said to have been a Tory of the Revolution, but an able and honest officer, Gallatin favored his removal; but Jefferson out of distrust to Burr maintained the Federalist in office. "The candidate for his place was Matthew L. Davis, Burr's right-hand-man, and sup-

ported by Burr with all his energy." The latter, the leading Republican of New York, desired to control the patronage of the administration in that state. (Adams, Life of Gallatin, 282.)

Another cause of difference between Jefferson and Gallatin was the conduct of Duane, editor of the Aurora. About the time of the removal of the seat of government to Washington, the office of the Secretary of the Treasury was burned with all the papers. Before this, Duane had obtained through Treasury clerks some manuscript, belonging to Gallatin and reflecting upon Duane, which he published. Gallatin's opposition to a system of general removals, advocated by the Aurora, secured for him Duane's enmity. This was the beginning of the party schisms in Pennsylvania. (Adams, Life of Gallatin, 277-286; Hildreth, V. 422, 3, 426-431; Schouler, II. 5-11; Young, 198-202; Jefferson's Works, IV.; Tucker, Life of Jefferson, II. 100 *et seq.*)

Jefferson's Policy.— The Seventh Congress, which had a Republican majority in both houses, met at Washington December 7, 1801.[1] Nathaniel Macon of North Carolina, was elected Speaker, and Abraham Baldwin of Georgia, President *pro tem.* of the Senate. John Randolph became the Republican leader in the House. (Schouler, II. 18-20; Hildreth, V. 435-8.)

Instead of making his first communication to Congress (Stat. Man., I. 152) by a speech in person, as had been the practice, Mr. Jefferson adopted the plan of sending a written *message*, to which no answer was expected. This fixed the rule which has been followed ever since. (Benton, Deb., II. 541, note; Stat. Man., I. 152.)

The President stated in his message that all foreign complications except those with Tripoli had been satisfactorily arranged. He recommended the reduction of public expenditures. The number of offices had been, he thought, too greatly multiplied, and should be reduced; he had already begun to reduce those dependent on executive discretion. (He had recalled Van Murray, Smith, and J. Q. Adams, ministers to Holland, Portugal, and Prussia, respectively, and had not appointed others in their places.) He advised, further, the repeal of the excise taxes; and in order to secure a corresponding decrease of the expenses, he recommended a reduction of the civil list, and the army and navy. He

1 The first meeting of Congress at Washington was that of the second session of the Sixth Congress (November 17, 1800). (Benton, Deb., II. 481.)

thought that agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, were most thriving when left most free to individual enterprise (the principle of *free trade*). He advised the revision of the judiciary system, and of the laws of naturalization.[1]

The Federalists attacked the parts of the message referring to the reduction of the revenue, and of the army and navy, and the revision of the judicial system. (Tucker, Life of Jefferson, II. 107-8; Schouler, II. 21.)

It devolved upon Mr. Gallatin to devise a plan for the readjustment of the finances, under the new policy of a rapid payment of the debt, and at the same time the reduction of taxes. To accomplish this it would be necessary to cut down the expenditures. Mr. Gallatin's estimates as finally reported were as follows:—

Revenue.		*Expenditures.*	
Import, etc.,	$9,500,000	Interest, etc.,	$7,100,000
Lands and postage,	450,000	Civil expend.,	980,000
	$9,950,000	Military "	1,420,000
		Navy "	1,100,000
Internal Revenue,	650,000		
Total,	$10,600,000		$10,600,000

(Life of Gallatin, 292.)

Mr. Gallatin had at first made lower estimates for the army and navy, but the Secretaries of those departments had objected to his arrangement. Seeing the difficulty of his task, Mr. Gallatin advised the continuance of the internal taxes; but their repeal was a necessary concession to the Republican party.

It will be seen that his first care was to set aside annually $7,100,000 (ultimately $7,300,000) for the payment of the interest and principal of the debt, by which $38,000,000 of the principal would be paid off in eight years, and the whole debt by the year 1817. "This was his 'fundamental substantial measure,' which was intended to affirm and fix upon the Government the principle of paying its debt, &c." (Life, 295.)

After providing for the payment of the debt, he proposed to make the other departments get on as best they could with the remainder of the estimated revenue. But these economies were

1 The Federalists had passed a naturalization law at the same time as the Alien Act, extending the time necessary to become a citizen to fourteen years. (Stat. at L., 1, 566.)

never realized, the departments costing on the average for the next ten years, $5,400,000 instead of $2,700,000, Mr. Gallatin's estimate, and he therefore succeeded in his scheme only from the fact that his estimates of the revenue were generally much below the actual receipts.

In making the payment of the debt of such great importance, it was assumed, without any good ground, that Hamilton had intended that the debt should never be paid. It was not eventually discharged until 1835; and it is by no means a certainty that Hamilton's more comprehensive and statesmanlike scheme would not have brought about its discharge at a much earlier date. On reading Gallatin's first report, Hamilton remarked that "Mr. Gallatin had not taken a large view of the subject." It was the view of a mere financier, but not of a statesman of the first order.

The best authority on the subject of the finances during Mr. Jefferson's administration, is the Life of Gallatin by Henry Adams, and Gallatin's works, edited by Mr. Adams. On the general policy see: Life of Gallatin, 290-97; Works, I. 24-74; also Jefferson's Works, IV.

Legislation.—At the beginning of the Seventh Congress, by an addition to the rules, reporters were given seats within the bar of the House; and the Senate for the first time admitted a stenographer on its floor; "but years were yet to elapse before any connected reports of its debates were published. (Benton, Deb. II., 545; Hildreth, V. 437.)

1. The anticipated attack upon the *Judiciary Act* of the last session was soon made. By the Act of March 8, 1802, the former act was repealed, and the system previously in practice revived. (Stat. at L., II. 132.)

The Federalists strenuously opposed the repeal, seeing in it the removal of one of the bulwarks which they had erected against Democratic changes. It was said that the appointment of the new judges, being for life, could not be set aside. Mr. Jefferson seems to have doubted "whether the judges had not a freehold in their offices of which they could not constitutionally be deprived. But he did not hesitate to sign the act." (Hildreth, V. 441; Schouler, II. 23-25.) "The *inferior* courts exist at the will of Congress, and may be changed and modified at discretion, subject to the limitation that a judge cannot be legislated out of his office while the office itself remains." (Cooley, Const. Law, 52 and note 2; Constitution, Art. III. Sect. 1.)

An abridgment of the debates on this bill, in which both parties put forth their whole strength, may be found in Benton, Deb., II.; *Senate*, 545-565; *House*, 596-639.

On April 29, following, an Act was passed amending the judiciary system, by which the terms of the Supreme Court were reduced to one annually, which a majority of the judges were authorized to hold. The number of circuits was increased to six (but Maine, Kentucky, and Tennessee were not to be included as in the repealed act). A single justice of the Supreme Court was to be assigned to each of these circuits, to hold semi-annual courts in each of his districts, with the district judge for an associate. (Stat. at L., II. 156; Hildreth, V. 442; Schouler, II. 25.)

2. *Repeal of Internal Taxes.* — The bill repealing internal taxes became a law April 6, 1802. (Stat. at L., II. 148.) By this law the taxes on domestic distilled spirits, on licenses to retail them, on stamps, on refined sugar, on auction sales, and on pleasure carriages, were repealed. The gross amount of these taxes was about $1,000,000 annually; but the cost of collection reduced the net revenue from them to about $600,000, of which $500,000 were derived from the tax on distilled spirits. The objections to them were: (1) The expense of their collection in proportion to the product (the argument of Gallatin especially); (2) Their anti-republican character; (3) The system of espionage necessitated by them; and (4) Their superfluity.

The argument in favor of their retention was: (1) They are necessary; (2) Any reduction, if necessary, should not be made on distilled spirits — a pernicious luxury — but on tea, coffee, sugar, and salt — articles of necessary consumption, now taxed fifty per cent on their foreign cost; (3) Internal revenue is a sure income amid the fluctuations incidental to foreign trade; (4) The complicated machinery for their collection, now in good order, should be kept up against the time of need, *i. e.* in case of war (realized ten years later). (Hildreth, V. 443-4; Benton, Deb., II. 579-81, 587-96; Life of Gallatin, 295.)

Notwithstanding this reduction of taxes, Congress, on Gallatin's recommendation, passed an act, April 29, 1802, to appropriate annually $7,300,000 for the redemption of the debt, a sum exceeding by over $1,000,000 the amount appropriated under Hamilton's policy. (Stat. at L., II. 167.)

But the reduction of taxation was not of long duration. The war with Tripoli necessitated an increase of $2\frac{1}{2}$ per cent in the

customs duties, March 26, 1804. (Stat. at L., II. 291.) This was called the "Mediterranean Fund" and was meant to be temporary; but by subsequent acts it became permanent. So that the reduction in internal taxes was more than balanced by the increase in import duties. (Life of Gallatin, 295.)

3. Reduction of the Army. — By the Act of March 16, 1802 (Stat. at L., II. 132) the army was reduced to the peace establishment of 1796, to consist of about 3000 men. A corps of engineers was to be stationed at West Point, there to constitute a military academy, with forty students for cadets. This was the beginning of the later more elaborate military school. The land had been bought by the United States in 1790, and McHenry had drawn up, from notes furnished by Washington, an elaborate plan of such a school, which ultimately became the basis of the present West Point Academy.[1] (Hildreth, V. 439.)

4. The Navy. — Before the Republicans came into power, the Federalists, by Act of Congress of March 3, 1801 (Stat. at L., II. 110), had ordered the sale of all the ships of the navy except thirteen of the largest; namely, the United States, Constitution, President, Constellation, Congress, Chesapeake, Philadelphia, New York, Essex, General Greene, Boston, Adams, and John Adams. Of these thirteen six were to be kept constantly in commission.

Pursuant to the law of 1798 ordering the construction of six seventy-fours, materials had been collected; but the appropriation for this purpose (Stat. at L., II. 178) by the new Congress (Republican) not being adequate ($200,000), work upon them was discontinued. (Cooper, History of the United States Navy, I. 264-74.)

On account of the hostilities which had commenced with Tripoli, Congress authorized the building of four additional ships of not over sixteen guns each, and fifteen gun-boats (February 8, 1803); and by Act of March 2, 1805, twenty-five more gun-boats. This was the beginning of Mr. Jefferson's famous gun-boat scheme, which he had hinted at in his first message.

5. Miscellaneous Acts. — The *naturalization law* of 1798 was repealed April 14, 1802 (Stat. at L., II. 153), and the period of of five years fixed as the time of residence for an alien to become a citizen. (This is the present requirement.)

---

1 In 1824 additional land was bought, and in 1826 New York ceded jurisdiction over it to the General Government.

By Act of Feb. 28, 1803, the importation of slaves was prohibited into any state "which by law has prohibited or shall prohibit the admission or importation of such" slaves.

The Act of Apportionment of Representatives under the census of 1800 was passed Jan. 14, 1802. (Stat. at L., II. 128; Appendix to this volume, p. 39.)

On Feb. 28, 1803, an Act was passed "for extending the external commerce of the United States." The sum of $2500 was appropriated for this purpose.

The Tripolitan War. — The treaty with Tripoli had been purchased by paying a gross sum down—an arrangement that did not suit the Bashaw when he compared his case with that of Algiers. Hence, as he threatened war against the United States, Commodore Dale was at once sent with four ships to the Mediterranean, to watch the Bashaw and repel any hostilities. On arriving at Gibraltar, he found two Tripolitan cruisers lying in wait for American vessels, the Bashaw having already declared war.

Congress, having recognized the existence of war with Tripoli, authorized the fitting out of such a naval force as the President might see fit, Feb. 6, 1802. (Stat. at L., II. 129.) A squadron of six vessels in command of Morris was accordingly sent to relieve Dale. Morris returned in 1803 having accomplished little, and was summarily dismissed. A new squadron was sent out under Commodore Preble. Some of the notable events of the war were: the burning of the Philadelphia (which had run upon a rock and had been captured by the Tripolitans) under the guns of the Tripolitan batteries by Stephen Decatur, Feb. 16, 1804; Bombardment of the town and attack upon the Tripolitan shipping, Aug. 3, 1804, repeated Aug. 7, 24, 28, and Sept. 3; and the unsuccessful attempt to burn the enemy's shipping, Sept. 4, in which Captain Sommers, Lieutenant Wadsworth, and the crew who had volunteered for this service, lost their lives. (Hildreth, V. 448, 529; Schouler, II. 17, 18, 67; Cooper, Naval History, I. 310-425 gives an interesting account of this war.)

Though an additional force arrived two days later under Commodore Barron, the lateness of the season prevented further operations, except the maintenance of the blockade, during the winter.

The next June (1805), Lear, consul of the United States at Algiers, concluded a treaty with Tripoli providing for an exchange

of prisoners, man for man, as far as they would go. For a surplus of 200 prisoners held by the Bashaw $6000 was paid as a ransom. "Thus terminated the war with Tripoli, after an existence of four years . . . . the United States would have retained in service some officers, and would have kept up a small force, had not this contest occurred; but its influence on the fortunes and character of the navy was incalculable. It saved the first, in a degree at least, and it may be said to have formed the last." (Cooper, 220; Hildreth, V. 561; Schouler, II. 92.) This war served in part to prepare the navy for the War of 1812.

The Purchase of the Louisiana Territory. — The most important measure of Jefferson's administration was the purchase of this territory (April 30, 1803). (See map.)

The disputes with the Spanish Government respecting the southwestern boundary of the United States, and the right of navigating the Mississippi . . . . assumed a new aspect by the rumor received in the United States in 1802, that Spain, by a secret treaty in October, 1800, had ceded Louisiana to France. In October, 1802, the Spanish Intendant declared, by proclamation, that the right of deposit at New Orleans no longer existed. (Art. 22 of Treaty of 1795.)

This measure caused great excitement in the Mississippi valley and Congress was beset with complaints. It was wrongly understood that the Floridas either were included in the cession to France or would be added to it; and Jefferson instructed Livingston, our minister to France, to try to prevent the cession (but with no result) and to insist, at least, that New Orleans and the Floridas be ceded to the United States. (State Papers, II. 552; Stat. Man., I. 232.)

It was thought to be insufferable that such a power as France then was should have possession of the mouth of the Mississippi.

In Congress the right of navigating the Mississippi was asserted by both houses, a place of deposit insisted upon, and an act (Stat. at L., II. 241) was passed March 3, 1803, authorizing "the President to call upon the executives of such of the states as he might deem expedient, for a detachment of militia, not exceeding 80,000, or to accept the services of any corps of volunteers in lieu of militia, for a term of twelve months. $25,000 was by the same act appropriated for the erection of arsenals on the western waters."

January 10, 1803, the President sent Monroe as minister plenipotentiary to France, to act with Livingston in the purchase of New Orleans (thus securing the free navigation of the Mississippi) and the Floridas. Congress appropriated for this purpose $2,000,000.

The cession of the whole Louisiana territory was not then a subject of discussion. But a new war between England and France was about to break out, and Napoleon, fearing that Louisiana would certainly fall into the hands of England, and also being in need of money, proposed to cede the "whole colony without any reservation." This he thought would so strengthen the United States that they would become a maritime rival that would one day humble the pride of England. (U. S. Treaties, 1001.)

But the Americans had been instructed only in reference to the left bank of the Mississippi, including New Orleans, and had not the time to obtain more ample instructions from their government. For war between England and France, then imminent, would prevent negotiations. They, therefore, assumed the responsibility of negotiating for the purchase of the entire territory, stipulating to pay therefor $15,000,000, one-fourth of which sum, however, to be used to pay debts due by France to citizens of the United States, and those arising from requisitions, seizures, and captures of ships during peace. The assent of Spain was deemed necessary, as that power had reserved, by the treaty of Oct. 1, 1800, a right of preference in case of cession by France. But haste was imperative, and hence the Spanish Ministry was not informed of the negotiations until after the treaty was concluded. Spain complained bitterly of this, and not till Feb. 10, 1804, did she assent to the transaction. The treaty was concluded April 30, 1803, and Napoleon hastened to ratify it May 22, the very day that hostilities began between France and England, and before it had been ratified by the United States.

The treaty was ratified by the Senate October 20, 1803, by 24 votes to 7 (U. S. Treaties, 275, 1000); and acts were passed, Oct. 31, and November 10, 1803, to carry the treaty into effect, Congress having been summoned by the President to meet on October 17 for this purpose.

It was opposed by the Federalists generally, mainly on two grounds, namely: first that the territory of the United States was already large enough; secondly, that the purchase of Louisiana

was unconstitutional. The New England Federalists, moreover, feared that this accession of territory in the West would transfer the balance of power from the original thirteen states to the new states of the West. But such Federalists as Hamilton and Gouverneur Morris approved of the measure.

Mr. Jefferson himself believed that the purchase was within the powers granted by the Constitution, and relied upon an amendment to that instrument by way of indemnity; and the "Republicans in Congress, by supporting the treaty without such an amendment, seem to have admitted the old Federalist principle of authority by 'construction.'" (Life of Gallatin, 320; Von Holst, I. 191, 92; and in general on the subject of the Louisiana purchase: Hildreth, V. 478-82; Schouler, II. 37-52; Life of Gallatin, 317-21; Stat. Man., I. 232-40; Young, Am. Stat., 203-211; Von Holst, I. 183-93; Benton, Deb., III. 61-77; Tucker, II. 492-98.)

Many of the eastern Federalists thought it would be for the interest of New England, with New York, to separate themselves from the Union. (Von Holst, I. 193-99.)

An act (Stat. at L., I. 283) passed March 26, 1804, divided the Louisiana territory, by the 33d parallel of N. Lat., into two territories—that on the south to be called the Territory of Orleans, and that on the north, the District of Louisiana—and provided a government for the former with officers appointed by the President. The District of Louisiana was for a year attached to the Territory of Indiana, and then itself made a separate territory. (Benton, Deb., III. 40-43.)

Meanwhile the question of boundary had arisen. (Maps: Colton's General Atlas, 26, 54, and map in this volume.) The treaty described the cession as including "the colony or province of Louisiana, with the same extent as it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." This admitted the double interpretation that it was Louisiana as claimed and held by the French prior to 1763, or as that name had been understood subsequently to the Spanish possession. Livingston agreed with Jefferson (Benton, Deb., III. and note) in holding to the former view, and advised the immediate occupation of the disputed territory as far as the Perdido. But Spain held to the latter view, and might refuse to give up the

possession of New Orleans. "Jefferson was, therefore, content to accept the formal delivery of the island and city of Orleans, made by Citizen Lausat (Dec. 20, 1803), who had, as commissioner of France, received possession a few days before from the Spanish authorities, leaving the east bank of the lakes and of the river above in possession of the Spaniards." The Americans thought that temporary silence would not injure their title to the remainder of the territory, and therefore left the question to be settled in the future. (Hildreth, V. 491-2; Young, Am. Stat., 210-11.)

Impeachment of Judges.—The Republicans had seen with much chagrin the Federal Bench occupied by Federalist Judges; and on the first opportunity made an attack upon them (1804). Justice Chase, of the Virginia and Maryland circuit, had at first opposed the Constitution, but like many others had come to be its warm supporter. He had the habit, it was said, of bringing politics into his charges to juries (as in his charge to the Maryland Grand-Jury, in which he condemned the repeal of the Judiciary Act). Mr. Hildreth says of him (V. 511): "He was exceedingly able, and an object of terror as well as hatred to his opponents. They wished, therefore, to get rid of him." He had presided at most of the trials under the sedition act of 1798.

Articles of impeachment were drawn up against him by the House on the charges of oppression and arbitrary conduct in the trial of Fries, and for displaying malignant and party feelings on several occasions, particularly in the trial of Callender, at Richmond, in his charge to a grand-jury, and in a political harangue at Baltimore.

The trial came on January 2, 1805. John Randolph, with Nicholson and Rodney, was manager on the part of the House. Chase had for counsel, Luther Martin, Charles Lee, and Harper, a trio against whom the prosecuting lawyers were no match.

Chase was acquitted on five of the eight counts by majorities of the Senate; on the other three a majority of the Senate held him guilty, but not the necessary two-thirds, so that he was acquitted on all.

The trial caused great excitement throughout the country, being made a party question, and the failure of the impeachment was hailed with joy by the Federalists, and as bitterly lamented by the Republicans. Randolph was especially disappointed, and pro-

posed an amendment to the Constitution, making judges removable by the President on the joint address of Congress.

Judge Peters, of the Pennsylvania district, had also been impeached, but his trial was not prosecuted.

At about the same time occurred the impeachment of three State Judges in Pennsylvania; but this also failed. "Thus, not perhaps without difficulty, was stayed the first rude irruption of a successful popular party upon our state and national judiciary; a department which by this time was learning a lesson not altogether needless." (Schouler, II. 79.) These attacks had the effect to modify the bearing of judges inclined to the oppression and insolent demeanor on the bench, formerly quite common in England. (Hildreth, V. 511-14, 540-44; Schouler, II. 54, 76-9; Benton, Deb., III. 173-284; Tucker, Vol. II; Cooley, Const. Law, 158, 9.)

The Public Lands.—In the thirteen original states, and in those states carved out of their territory, as Maine, Vermont, and Kentucky, the title to the public lands is in the state governments, having been received by charter from the British Crown. In all other states and territories the title to such lands remains in the General Government, as vested in it by gift, purchase, or conquest. The state after admission has no control over the public lands within its limits. (Schouler, I. 98, 9.)

The land system of the United States Government was created by the Act of Congress of May 18, 1796 (Stat. at L., I. 464), providing for the sale of lands in the territory northwest of the river Ohio. (Life of Gallatin, 167.) The lands were to be laid out in townships six miles square, and to be sold in sections, with certain reservations, the price to be not less $2.00 per acre.

This system was further developed and fixed under the supervision of Mr. Gallatin, as Secretary of the Treasury. Together with Mr. Madison and Mr. Lincoln, he applied himself to the settlement of the conflicting titles to lands in the Southwest; and particularly the extinguishment of Indian titles to lands in that quarter, in order to make way for the development of the land-system. (Life of Gallatin, 297-8.)

The Act of April 30, 1802, providing for the admission of Ohio (Stat. at L., II. 173), reserved to each township one section for the use of schools, and reserved one-twentieth of the net proceeds of the sale of lands to the building of roads from the Atlantic coast across Ohio. This was the origin of the once famous Cum-

berland road, "and the first step in the system of internal improvements." (Life of Gallatin, 298, 9; Writings of Gallatin, I. 76; Schouler, II. 74-76; Hildreth, V. 347-9, 445-48, 475.)

The Indians.—Mr. Jefferson's policy towards the Indians was humane and conciliatory. Their "claims of occupancy were respected, and at the same time extinguished by fair purchase as rapidly as possible. Mr. Jefferson wished to civilize the Indians and assimilate them to the habits and pursuits of their white neighbors. (Schouler, II. 75, 6; Hildreth, V. 448, 482, 498, 556-57.)

Official Ceremonies, etc.—For an account of official ceremonies and "White-House etiquette" in Mr. Jefferson's administration, see Schouler, II. 80-86.

The Election of 1804.—Mr. Jefferson's first term of office was devoted mainly to domestic affairs; and in the absence of foreign difficulties, was very successful and popular. The country entered upon an era of prosperity.

In anticipation of the election of 1804, a caucus of Republican members of Congress (a system continued till 1824) nominated Jefferson and George Clinton of New York to represent that party. The Federalists nominated C. C. Pinckney of South Carolina for President, and Rufus King of New York for Vice-President.

The Federalists received but 14 votes — nine from Connecticut, three from Delaware, and two from Maryland — while the Republicans received 162 (Appendix, p. 37.) In this election also there was a party intrigue. As had been the case hitherto, Burr, the Vice-President, was expected, by the New England Republicans especially, to succeed Jefferson in the presidency. But defeated in this by Jefferson, and, in his subsequent candidacy for the governorship of New York, by Hamilton, Burr was driven from political life. These troubles soon led to his duel with Hamilton, in which the latter was killed. (Hildreth, V. 516-29; Schouler, II. 60-67.)

In his second inaugural address (March 4, 1805) Jefferson in the first place maintained the consistency of his past administration with the principles of his first address. He spoke of the liberal principles pursued in foreign relations, and of their success. He exulted over the reduction of taxes, and the suppression of unnecessary offices, and yet with "a revenue which is levied on foreign luxuries and paid by wealthy consumers, is sufficient to defray the expenses of the Government, to fulfil contracts with

other governments and the Indians, and to afford a surplus sufficient to redeem the public debt in a short period." "The revenue, when thus liberated, may, by a just repartition among the States, and a correspondent amendment to the Constitution, be applied, *in time of peace*, to 'rivers, canals, roads, arts, manufactures, education, and other great objects, in each state, and *in time of war*, it may meet all the annual expenditures within the year.'" (Stat. Man., I. 245, 173.)

The Cabinet was continued without change. Two of the members, Mr. Madison and Mr. Gallatin, formed with the President, says Mr. Henry Adams, a triumvirate that governed the country during the eight years of Mr. Jefferson's administration.

In 1805, judging from the success of the past four years, they could well look forward to a great future for the nation under their guidance. The debt would soon be paid off, and the revenue could be employed in works of public improvements.

II. Jefferson's Administration, Second Term.

The Presidential and Congressional elections of 1804 seemed to be an emphatic approval of the policy of Mr. Jefferson and the Republicans.

With increased majorities in Congress, it was now proposed to develop still further that policy.

In his sixth annual message Mr. Jefferson, after referring to the probable extinction of the debt in the near future and the surplus revenue thus to be set free, proposes, instead of reducing the impost duty, to apply the revenue "to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of federal powers. . . . . I suppose an amendment to the Constitution, by consent of the states, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied." (Stat. Man., I. 190, 91.)

Mr. Gallatin, unlike Jefferson and Madison, believed that the powers of Congress were sufficient without an amendment to the Constitution, and this was the view generally taken by Congress.

Congress had already exercised this power by an Act of March 29, 1806 (Stat. at L., II. 357), "to regulate the laying and making

a road from Cumberland in the State of Maryland to the State of Ohio," connecting the Potomac and Ohio rivers. For this purpose the modest sum of $30,000 was appropriated; but its ultimate cost, including repairs and its extension through Ohio, Indiana, and Illinois, was about $7,000,000.

For many years this turnpike road was the principal thoroughfare of emigration to the West. From this time on, until the introduction of railways, Congress was constantly appropriating money for the construction of roads and canals.

On February 10, 1807, Congress passed an act under which the coast survey was authorized, and appropriated $50,000 to carry it into effect. (Stat. at L., II. 413.)

A few weeks later a resolution was adopted by the Senate, directing the Secretary of the Treasury to prepare and report to the Senate a general scheme of internal improvement. (Life of Gallatin, 350.) After a year's preparation Mr. Gallatin sent in his report, which recommended a grand scheme of internal improvements, classified as follows: 1. Those parallel with the sea-coast, including canals cutting Cape Cod, New Jersey, Delaware, and North Carolina, and a great turnpike road from Maine to Georgia, at an estimated cost of $7,800,000; 2. The improvement of rivers and the construction of roads running east and west, etc., at a cost of $4,800,000; 3. Those to run north and northwest, namely, canals connecting the Hudson with Lakes Champlain and Ontario, and a canal around Niagara Falls, at a cost of $4,000,000; 4. Local improvements at a cost of $3,400,000. Thus making in all $20,000,000; the work to be completed in ten years, by appropriating $2,000,000 a year.

"Naturally the improvements thus contemplated were so laid out as to combine and satisfy local interests. The advantage which Mr. Gallatin proposed to gain was that of combining these interests in advance, so that they should co-operate in one great system instead of wasting the public resources in isolated efforts. . . . . By thus establishing a complete national system to be executed by degrees, the whole business of annual chaffering and log-rolling for local appropriations in Congress, and all its consequent corruptions and inconsistencies, were to be avoided." (Adams, Life of Gallatin, 351, 2.)

Unforseen troubles prevented the execution of this great scheme; and later, the party that now favored the policy of internal im-

provements by the General Government became its opponents. As yet, however, it was not a party issue.

Foreign Relations. — The leading feature of Mr. Jefferson's second term, as it had been that of John Adams, was the foreign complications growing out of the war in Europe.

Spain. — The relations with Spain may be dismissed for the present with a few words in explanation of their effect upon the policy of the United States.

Spain was not at all satisfied with the cession of Louisiana and New Orleans to the United States, and threw many obstacles in the way of their peaceful possession, particularly in the navigation of the rivers rising in the territory of the United States and flowing through the Floridas. Many collisions occurred between citizens and officials of the two countries. (Tucker, Life of Jefferson, II. 186, 7.)

Moreover the United States claimed West Florida as included in the Louisiana cession (to the Perdido), while Spain insisted on the boundary of the Iberville and lakes Maurepas and Pontchartrain. The dispute having been referred to Talleyrand, his decision was in favor of the Spanish claim. The United States refused to accept this decision; and by proclamation, dated October 27, 1810, President Madison ordered the military occupation of West Florida. (Stat. at L., II. 761; Hildreth, V. 223-26; Schouler, II. 312, 13.)

On the side of Mexico, the United States claimed to the Rio Grande, while the Spanish claim extended to the Mermentan. The Sabine had been considered as a provisional boundary, but Spanish troops had crossed that river. Orders were sent to General Wilkinson, Governor of the Louisiana Territory, to drive them back.

To avoid war Mr. Jefferson proposed to purchase Florida, and Congress appropriated $2,000,000 for this purpose.

Commissioners were sent to Spain to negotiate the purchase, but their mission failed; and in 1808 all diplomatic relations with Spain were broken off, and were not resumed till 1815. (Hildreth, V 536-38, 568-72, 574-76, 646; Schouler, II. 94-5, 99, 100.)

These complications with Spain were the immediate cause, on the part of Mr. Jefferson, of urging forward his gun-boat scheme in a special message to Congress February 10, 1807. (Stat. Man., I. 198.) He advised the building immediately of two hundred gun-boats.

Mr. Gallatin tried in vain to disuade the President from this plan.

"Mr. Jefferson was a great man, and like other great men he occasionally committed great follies, yet it may be doubted whether in the whole course of his life he ever wrote anything much more absurd than this letter." (Letter to Gallatin in defence of the gun-boat scheme, February 9, 1807; Jefferson's Writings, V. 42.)

Congress had already authorized the building of a large number of these boats. (Stat. at L., II. 330, 402.) On December 18, 1807, 108 more were provided for.

"In June, 1809, 176 gun-boats had been built, of which 24 only were in actual service. The aggregate expense to that date had been $1,700,000." "The gun-boats were in some respects positively mischievous, in others of very little use, and they were easily destroyed by the enemy whenever found. At the end of the war (1812-15) such of them as were not already captured, burned, wrecked, or decayed, were quietly broken up or sold." (Adams, Life of Gallatin, 352-4.)

The Federalists averred that the money wasted on these boats would have been sufficient to complete the six ships of 74 guns ordered in the administration of Adams. (Hildreth, II. 538, 579, 649, 651; III. 29, 30.)

In connection with Spanish relations may be mentioned the "Miranda enterprise," an attempt made by private persons to revolutionize the Spanish American colonies, and looked upon with favor by some leading statesmen. First broached in 1798, this scheme took a new start in 1806, when hostilities with Spain seemed probable. Miranda landed on the coast of Caracas, but was defeated by the Spaniards. (Hildreth, II. 238, 9, 572-4; III. 223.)

Burr's project may be mentioned here, as affecting Spanish territory.

Burr had lost the confidence of his party, and, on account of his duel with Hamilton, was looked upon with aversion by a large part of the people. Defeated in politics, and broken in fortune, he conceived the bold but fanciful project of conquering Mexico and of setting up a monarchy there. The Western States, moreover, were to be detached from the Union. He drew into this conspiracy a number of men of influence. His plan was to seize New Orleans and make it the base of his operations. Believing he had secured

General Wilkinson to his project, he proceeded down the Ohio and Mississippi with a flotilla, but mustering only 80 to 100 men (Dec. 1806 and Jan. and Feb. 1807). Wilkinson, however, turned against him, and Burr was thus forced to disband his expedition. He was taken prisoner on the Tombigbee, and sent to Richmond for trial. (Schouler, II. 118-122 ; Hildreth, V. 594-627.)

The trial of Burr on the charge of treason came on before the Circuit Court at Richmond, August, 1807, Chief-Justice Marshall presiding ; and resulted in the acquittal of Burr, on the ground that it was not proved that there had been a military array, etc. ; and even if such an array had been proved, it was not shown that Burr had anything to do with its assembling. A second trial, on the charge of setting on foot a military expedition against Spanish territory, failed because evidence was excluded of all acts which had not occurred within the district of Virginia. (Hildreth, V. 668-673 ; Marshall's Writings, 53 ; Schouler, II. 122.)

Bollman and Swartwout, two of Burr's accomplices, having been brought before the Supreme Court on a writ of *habeas corpus* (Feb. 21, 1807), were discharged from custody on the ground that they had committed no overt act of treason. The Court gave in this case a careful definition of treason under the Constitution. (Appendix, p. 31 ; Hildreth, V. 626 ; Constitution, Art. III. Sect. 3 ; Cooley, Const. Law, 91, 287, 8.)

Relations with England. — During the twelve years of the duration of the commercial articles of the Jay Treaty (1794-1806), the chief causes of complaint against Great Britain had been the alleged violation of neutral rights by the strict enforcement on the part of that power of the so-called "*Rule of the War of 1756*," which subjects to capture a neutral trade not open in time of peace.[1] A second cause of complaint was the impressment of American seamen.

In 1806 the disputes with England assumed a more threatening aspect. The provisions of the Jay Treaty in regard to commerce were about to expire. To secure their renewal, and if possible the settlement of disputed questions, Mr. Monroe and William Pinckney of Maryland were appointed commissioners to England ; but they were expressly instructed to make no treaty which did not

1 Mr. Madison published in 1806 an able refutation of this doctrine. (Writings, II. 227.) Great Britain has since abandoned the policy.

secure American vessels on the high seas against the visitation and search by British cruisers. The British commissioners (Lords Auckland and Howie) refused to yield the right of arresting British deserters and of impressing British subjects, even in American ships; and according to English law the subject could not renounce his allegiance to the Crown by naturalization in a foreign country. (This is the doctrine of indellible allegiance.) So that American citizens by adoption, if they had been born in Great Britain, were claimed as British subjects.

The American commissioners considering the advantages of a treaty except in this one particular, concluded, as Jay had done twelve years before, to assume the responsibility of continuing the negotiations. A treaty based upon that of Jay's, was signed December 31, 1806. It was accompanied, however, by a note from the British ministers reserving the right to abrogate the treaty if the United States submitted to the Berlin Decree.

For the reason that the treaty contained no provision on the subject of impressment, Mr. Jefferson declined to submit it to the Senate for approval; but sent it back for revision. In the mean time, however, Mr. Fox had died, and Mr. George Canning had become Secretary for foreign affairs. He refused to renew the negotiations.

Mr. Jefferson's course in refusing to sign the treaty was loudly condemned by the Federalists and the commercial classes; on the other hand he was generally supported by the Republicans, except Mr. Randolph and his faction, who had become hostile to the Administration. (See text of the treaty in Wait's State Papers, III. 352; note appended, Ib. 362. On the general subject: Stat. Man., I. 250-53; Hildreth, V. 653-65; Schouler, II. 135-44; Adams, Life of Gallatin, 355, 6.)

Mr. Jefferson felt little concern at the failure of negotiations, for he believed "that it will ever be in our power to keep so even a stand between England and France as to inspire a wish in neither to throw us into the scale of his adversary." It had been a favorite theory with Mr. Jefferson and Mr. Madison that the commercial importance of the United States was so great that by restrictive regulations upon commerce and navigation, as, acts of non-intercourse, embargoes, and impost duties, foreign nations could be coerced without a resort to war. This was the policy advocated by them in 1794. (Hildreth, V. 577, 8.)

The fact was that the United States were not at that time a factor to be counted, in the case of war, by either of the leading belligerent powers.

In view of the invasion of neutral rights on the part of England, Congress had, by the Act of April 18, 1806, prohibited the importation of certain goods from Great Britain, to take effect on the 15th of November. (Stat. at L., II. 379; Hildreth, V. 577-582.)

Pending the negotiations of 1806, this Act was suspended in December of that year for six months. In the mean time events occurred which tended still more to widen the breach between the two nations.

By the orders in council of May 16, 1806, England had declared the coast from the Elbe to Brest in a partial state of blockade.

Napoleon, since the battle of Trafalgar, despairing of holding the seas against England, began to develop his "continental system;" a scheme by which England was to be isolated and reduced by starvation. He replied to the above orders in council by the celebrated "Berlin Decree" of November 21, 1806 (Wait's Stat. Papers, V. 478), by which: (1) The British islands were declared in a state of blockade; (2) All commerce and correspondence with those islands were prohibited; (3) Trade in English merchandise belonging to England was declared illegal.

England retaliated by the orders in council of January 7, and November 11, 1807 (Wait's Stat. Papers, VI. 62), declaring all ports of France and her allies, and all ports from which British vessels were excluded, in a state of blockade, and all trade with those ports unlawful.

These were followed by Napoleon's "Milan Decree" of December 17, 1807 (Wait's Stat. Papers, VI. 470), declaring every ship which submitted to be searched by English cruisers to be denationalized, and lawful prize.

It is easy to see that these measures of England and France were entirely destructive of American commerce; and this was what was intended by the English ministry. (Adams, Life of Gallatin, 365, note; Schouler, II. 151-56; Hildreth, V. 646-49; III. 31-6.)

To add to the bitterness of feeling against England came the affair of the Chesapeake and Leopard (June 22, 1807). The commander of the British ship Leopard demanded permission to search the American ship of war Chesapeake, near the capes of

Virginia; and on a refusal, fired into her, killing several of the crew. Afterwards four sailors were taken from her as deserters, three of whom were American citizens. The fourth was hanged at Halifax.

The American Government demanded reparation, but Mr. Jefferson coupled with this demand another for the relinquishment of the general right of impressment. The act of the British commander was disavowed by his government and reparation offered, but the general question of impressment remained as before.

Mr. Jefferson assumed a lofty tone, but unfortunately there was no force with which to back it up. (Hildreth, V. 674-86; Life of Gallatin, 357, 364; Tucker, Life of Jefferson, II. 235-38; Schouler, II. 145-50; Von Holst, I. 201-2.)

In view of the orders in council and decrees of England and France respectively, in regard to neutral commerce, Mr. Jefferson, in a special message of December 18, 1807 (Stat. Man., I. 204) recommended to Congress the laying of an embargo on all vessels of the United States. Four days later Congress passed an act (Stat. at L., II. 451, made more strict by Act of March 12, 1808) prohibiting the departure of vessels from American ports bound to foreign ports, etc., except foreign armed vessels and foreign merchant ships in ballast. (Hildreth, VI. 36-43; Schouler, II. 158-65; Benton, Debates, III. 640-42; Jefferson's Works, V 227, 252, 299, VII. 373; Life of Gallatin, 366-69.)

This act has been called "Jefferson's embargo"; it was the second in the history of the United States. It was "the engine by which England and France were to be forced to do our will." "Meanwhile, the effect of a permanent embargo was to carry out by the machinery of the United States Government precisely the policy which Mr. Canning had adopted for his own. American shipping ceased to exist, American commerce was annihilated, American seamen were forced to seek employment under the British flag; and British ships and British commerce alone occupied the ocean." (Life of Gallatin, 367, 8.)

Opposition to the Embargo. — The Federalists in general, and especially those of New England, opposed the embargo. First, on account of its economic effect. The New England states, being mostly employed in commerce and navigation, were the first to feel the effects of the embargo; their industry was destroyed at one blow. The ultimate effect upon the southern or agricultural states

was not less severe; while New England, forced into new pursuits, became independent of the sea. (Von Holst, I. 209; Benton, Deb., III. 692, 698-700; IV. 64; Lodge, Life of Cabot, 480, 481; Hildreth, III. 34, 110-12; Schouler, II. 164, 5, 173-78.)

The Federalists in searching for arguments against the embargo, besides the ruinous policy of the act, could find only that of its unconstitutionality.

As the Constitution contained no express provision upon this subject, Congress claimed the right under its authority to "regulate commerce." (Art. I. Sect. 8, Cl. 3.) But the Federalists said that an unlimited embargo was not a regulation, but an annihilation of commerce. The Federalists and Republicans had exactly changed places on the question of the constructive powers under the Constitution. (Life of Gallatin, 369-72.)

The district courts enforced the measure; and the Supreme Court seem to have been of the opinion that Congress had complete authority in the matter. (Gibbons *v.* Ogden, Marshall's Writings, 290-93. See also Appendix, p. 32.) "I have ever considered," says Mr. Story, "the embargo a measure which went to the utmost limit of *constructive* power under the Constitution . . . . an unlimited prohibition or suspension of foreign commerce." (Life and Letters of Joseph Story, I. 185-6.) "The power to levy embargoes," says Judge Cooley, "is a sovereign power, and therefore knows no limit." (Const. Law, p. 68.) See also Von Holst, I. 203-204; Hildreth, VI. 93.

The embargo was evaded to a great extent, and finally even resisted. The Government therefore called for more ample powers for its enforcement. In response to this call, Congress passed the so-called "Enforcement Act," April 25, 1808 (Stat. at L., II. 501), by the provisions of which the United States navy was to be turned into a police squadron to assist in destroying American commerce. "It was a terrible measure, and in comparison with its sweeping grants of arbitrary power all previous enactments of the United States Congress sank into comparative insignificance." (Life of Gallatin, 378-80; Hildreth, VI. 108-111.)

The resistance to the embargo went so far that it was said that the New England Federalists were determined if it were persisted in to separate themselves from the Union. (Stat. Man., I. 263, note; Adams, New England Federalism, 1800-1814; Von Holst, I. 218-25; Schouler, II. 192-4.)

That the question of separating from the Union was broached among the Federalist leaders there is little doubt; but it is scarcely proved that there was any widespread sentiment among the masses favoring secession. Sir James Craig found this to be the case when he attempted in February, 1809, to encourage the supposed New England revolt. (Von Holst, I. 221-3.)

On account of the growing opposition to the embargo, and because it had not produced the desired effect, Congress passed the "Non-intercourse Law," March 1, 1809, to take effect March 15, repealing the embargo as to all nations except France and Great Britain, and interdicting with them all commercial intercourse whatever. (Stat. at L., II. 528.)

As a measure for coercing foreign states the embargo had proved an entire failure; it had no doubt affected adversely English manufacturing industries, but on the other hand it had rather increased the English carrying trade and shipping; while at home it had paralyzed almost every industry, and had caused to be lost to the United States a great amount of commerce, and of the carrying trade, which went permanently into other channels; moreover it stopped importation, and hence destroyed the chief source of revenue upon which the Republicans had relied.

On the subject of this embargo see: Hildreth, VI. 36-40, 69-93, 96-138; Schouler, II. 158-66, 173-85, 194-6; Adams, Life of Gallatin, 366-73, 375-86; Von Holst, I. 200-225; Tucker, II.; Stat. Man., I. 255-9; Benton, Deb., III. and IV.

The Election of 1808.—Although there had been some fear of the defeat of the Republicans, yet Mr. Madison and George Clinton were elected by a large majority. (Appendix, p. 37.)

When the result of the election was known, Mr. Jefferson refused any longer to bear the responsibility of the presidential office. "I have thought it right," he wrote, "to take no part myself in proposing measures the execution of which will devolve upon my successor. I am therefore chiefly an unmeddling listener to what others say." (Life of Gallatin, 377.) The necessity of carrying on the Government therefore devolved chiefly upon Mr. Madison and Mr. Gallatin.

Mr. Jefferson's second term came to an end on the 4th day of March, 1804, in the midst of the most trying circumstances, both at home and abroad. During the preceding eight years, says Mr. Henry Adams (Life of Gallatin, 269), the country was

governed by three men — Jefferson, Madison, and Gallatin. During this period, as during the administrations of Washington and Adams, the President and Cabinet were not only the executive branch of the Government, but they also shaped very largely the course of legislation. Thus the executive came to be looked upon as the government; and it was thought the country must go to ruin under a particular administration or policy.

But the people were really governing themselves in the greater number of their affairs, in the State governments and local meetings; and if not absolutely restricted by such laws as the embargo, or by the want of a uniformity of general laws, as under the Confederation, would thrive independently of the General Government. So up to this time the country had, under all the administrations, increased rapidly in wealth and population. In 1807 the exports had risen to over $100,000,000 in value. In 1810 the population had increased to seven millions and a quarter. The great West was being opened up by ways of communication and by explorations and surveys.

As to the condition of the country as a result of the embargo, a committee of the Massachusetts legislature reported in January, 1809, as follows: "Our agriculture is discouraged; the fisheries abandoned; navigation forbidden; our commerce at home restrained, if not annihilated; our commerce cut off; our navy sold, dismantled, or degraded to the service of cutters or gunboats; the revenue extinguished; the course of justice interrupted; and the nation weakened by internal animosities and divisions, at the moment when it is unnecessarily and improvidently exposed to war with Great Britain, France, and Spain." But the friends of Jefferson set forth, as the good results from his administration, "First, the acquisition of Louisiana, by which more than a million of square miles were added to the national domain and the free navigation of the Mississippi secured; which also settled a troublesome and threatening controversy with Spain, and removed the powerful and dangerous neighborhood of France; Second, the surveys of the coast and the exploring expedition of Lewis and Clarke .... Third, the administration had done much to advance the Indians in the arts of civilized life, and had obtained their voluntary relinquishment of their title to 96,000,000 of acres; it had also the merit of compelling the Barbary powers to respect the flag of the United States." (Stat. Man., I. 264.)

Mr. Jefferson, when he saw his political theories of government one after another break down in practice—the sanguine hopes of a lifetime blotted out—was all at sea. He was unable to abandon his old theories and try others; he therefore resigned his power into other hands and retired forever from political life.

For Mr. Jefferson's character and political policy see: Schouler, II. 199-204; Hildreth, IV. 291-2, 297-8, 340-1; VI. 138; Adams, Life of Gallatin, 491-2; Lodge, Life of Cabot, 495; Stat. Man., I. 139-48, 265-6; Tucker, Life of Jefferson.

III. Madison's Administration—First Term—1809–13.

To the close of Jefferson's administration the Government had been controlled by men who had been the chief actors in the Revolution. Madison and Monroe, it is true, had participated in that struggle, and continued still for some time at the head of the Government. But their main services to the country had been done; they had not the nerve or courage to deal with the questions now to be settled. Jefferson had "turned the responsibility and the burden of the war with Great Britain over to his successor, Mr. Madison, whom Gen. Jackson pronounced to be a President 'not fit for blood and carnage.'" (Wise, Seven Decades of the Union, 52.) "Under such conditions (says Von Holst, I. 229) the field belongs, in a popular state, to those possessed of the courage to resolve and do. The *homines novi* in Congress had this courage, and Madison became their tool." The ablest of these men, now in Congress for the first time (1811), were Henry Clay of Kentucky, William Lowndes and J. C. Calhoun of South Carolina, Felix Grundy of Tennessee, and W. H. Crawford of Georgia. (Hildreth, VI. 260.)

For his Cabinet, Madison continued Gallatin in the Treasury, and Rodney as Attorney-General; for the other places, he selected Robert Smith of Maryland, as Secretary of State, William Eustis of Massachusetts, Secretary of War, and Paul Hamilton of South Carolina, as Secretary of the Navy. The Cabinet was a poor one, and not calculated to be harmonious. Robert Smith was a brother of Senator Smith, who with Duane, editor of the Aurora, W. B. Giles and others, were very hostile to Gallatin, and later brought about his retirement from the Cabinet. (Hildreth, VI. 149-50; Schouler, II. 279-81; Life of Gallatin, 389-92; Stat. Man., I. 341.)

Mr. Madison was unable to hold his party together in Congress, as that legislative body had become utterly demoralized. It could not be brought to do anything or to have any policy. It had repealed the embargo, but would not go to war. A period of stagnation followed. (Life of Gallatin, 397-401.)

The embargo had so affected the revenue that Mr. Gallatin had to report (December 8, 1809) a deficit. "The expenses of government, exclusively of the payments on account of the principal of the debt, have exceeded the actual receipts into the Treasury by a sum of nearly $1,300,000." In case the military and naval expenditure were as heavy as in 1809, authority for a loan of $4,000,000 would be required. He urged Congress to adopt measures to enforce the non-intercourse with England and France. (Life of Gallatin, 412.) Accordingly, the Macon bill — a navigation act of the most severe kind, meeting the orders in council and the French edicts on their own ground — was brought forward and put through the House, but was rejected by the Senate through the influence of Gallatin's enemies — Messrs. Smith, Giles, and Duane. (Ibid. 413-14.)

Finally, a bill — Macon's No. 2 — was passed by Congress, May 1, 1810, "which has strong claims to be considered the most disgraceful act on the American statute-book." (Ibid. 416.) It repealed the non-importation act, but put nothing in its place. It left the American shipping unprotected — precisely in the position in which it was before the embargo or non-intercourse act had been passed. In the last section of the act it was provided that if either Great Britain or France should revoke its edicts the United States would prohibit trade with the other.

This act, weak as it was, had the effect to force Napoleon to revoke his Berlin and Milan decrees (to take effect November 1, 1810). The removal of home restrictions upon the commerce left him at a disadvantage, since he could not enforce his system while England was all-powerful at sea.

The United States Government assuming the revocation of the Berlin and Milan decrees to be a sufficient fulfilment of the Macon Act, issued November 1, 1810, a proclamation removing restrictions on French vessels. At the same time the Secretary of the Treasury sent a circular to collectors to the effect that, after February 2, 1811, all intercourse with Great Britain and her dependencies should cease. The last named power had refused to revoke

its orders in council, alleging that Napoleon had not removed, in fact, his restrictions on American commerce. (The late Rambouillet decree, March 23, 1810, had not been repealed. This confiscated nearly eight millions in value of American shipping and cargoes.)

The President announced by proclamation, November 1, 1810, that England would be accorded three months within which to revoke her orders; and on March 2, 1811, Congress passed an act reviving the non-intercourse with England in case those orders were not revoked. (Stat. at L., II. 651; Hildreth, VI. 196-207, 214-23, 232-6; Schouler, II. 293-97, 301-12; Life of Gallatin, 413-16, 419-27; Stat. Man., I. 343, 4; Young, Am. Stat., 234-47; Benton, Deb., IV. ....)

The Federalists opposed this new non-intercourse act by all known parliamentary tactics; and the bill was passed only by "the infuriated majority" ruling that the adoption of the "previous question" should stop debate. This was the beginning of a practice which has since been adhered to in the debates of the House. (Hildreth, VI. 236; Schouler, II. 293.)

In the meantime the dissentions in the Republican party brought on a Cabinet crisis. The feud was mainly kept alive by a senatorial clique hostile to Mr. Gallatin, led by General Smith, a brother of the Secretary of State.

Bank.—As the Bank charter would expire March 4, 1811, Mr. Gallatin recommended its renewal, believing the Bank to be essential to the public safety.

The bill for a re-charter, however, met with not only the old prejudice against it, but also was weighed down by the personal hostility to the Secretary of the Treasury. After a long and able debate, ending in the House January 24, 1811, the bill was defeated by a vote of 65 to 64, and in the Senate February 20, by the casting vote of the Vice-President, George Clinton.

Among the ablest supporters of the bill was William H. Crawford, Senator from Georgia. In the House Henry Clay (afterwards the great champion of the Bank), who had just taken his seat, opposed the charter. (Life of Gallatin, 426-35; Hildreth, VI. 211, 12, 228-31; Schouler, II. 316-18; Benton, Deb. IV. 266-351, 391, note.)

Whatever may have been the merits of the policy of establishing the Bank in 1791, it was certainly not a favorable time to change

that policy suddenly, when there was no other adequate fiscal agent through which the Government could carry on its financial operations. (Benton, Deb., IV. 340.)

The Constitutional question, too, brought forward by Mr. Clay, was supposed to have been set at rest by Mr. Jefferson's giving his assent to the establishment of branches in the territories.

On account of the hostility to him in Congress and in the Cabinet, Mr. Gallatin tendered his resiguation after the failure of the Bank bill. Mr. Madison declined to accept it, but made other changes. In November, 1811, James Monroe superseded Robert Smith as Secretary of State; and in December William Pinckney of Maryland was appointed Attorney-General in place of Cesar A. Rodney. (Life of Gallatin, 435-40; Schouler, II. 319-22.)

War with England Begun.—Several attempts had been made to settle the disputes with England, but these had all failed. See negotiations with Erskine and Jackson. (Hildreth, VI. 165-77, 183-95, 216, 17; Schouler, II. 282-93; Life of Gallatin, 381, 2, 392-6, 418.)

Thus were the relations with England in an unsettled state when, on account of the refusal of England to revoke her orders in council, Congress passed, April 14, 1812, the third embargo act, to be in force for ninety days, with the intention to declare war at the end of that time if England persisted in her course.

June 1, 1812, Madison in a confidential message (Stat. Man., I. 293) set forth the grievances of the United States against England: (1) The impressment of American seamen; (2) The violation of neutral rights by British cruisers upon our coast; (3) The system of illegal or "Paper Blockades" declared by Orders in Council; (4) A tampering with the Indians. In the House this message was referred to the Committee on Foreign Relations, a majority of whom reported, June 3, a manifesto as the basis of a declaration of war. The bill passed both houses in a secret session, and became a law June 18. (Benton, Deb., IV. 418, 559-60.) The next day appeared a proclamation embodying the act.

The Federalists tried to have the act rejected, or at least its passage postponed for a month. Had this been done probably war would not have arisen; for, June 23, England revoked her orders in council, which action confusion in her councils had hitherto delayed. The Federalists said that a committee of leading Republican members of Congress waited on the President and informed

him that, unless he would "accede to a declaration of war with Great Britain, neither his nomination nor his re-election to the Presidency could be relied on. Thus situated, Mr. Madison concluded to waive his own objections to the course determined on by his political friends, and to do all he could for the prosecution of a war for which he had no taste; and he pretended to no knowledge of war as a science or profession." (Hildreth, VI. 302-6, 313-34, 346-7; Schouler, II. 348-56; Life of Gallatin, 456-9; Stat. Man., I. 353-56; Von Holst, I. 230-4.)

For the war thus hastily declared there was no doubt sufficient cause, but it would have been better policy perhaps to have begun it five years earlier, before the finances of the nation had been paralyzed by restrictions upon commerce, and before the ardor of a large portion of the people had been cooled by five years of stagnation.

Moreover no preparation had been made for the war; the Republicans had continued to despise the navy, and now placed no reliance upon it. It was said afterwards, on the authority of Commodores Stewart and Bainbridge, that the President and Cabinet had the design to lay up the ships to save expense, and prevent them from being captured. (Hildreth, VI. 365; Schouler, II. 362.) This charge was denied by Gallatin; and Mr. Henry Adams shows that it was not plausible. (Life of Gallatin, 462; Gallatin's Works, II. 611.)

The main dependence was upon the army, which, says Mr. Hildreth (VI. 308), consisted at the commencement of the war of 10,000 men, of whom one-half were raw recruits. By the Act of June 26, 1812, the regular army was to consist of 36,700 men; volunteers, to be organized on the model of the regular army, were "to form the chief resource for active operations." The President, too, was authorized to call out the militia.

Ample provision was made for officers; but for the most part they "were indebted for their present appointments rather to political than to military considerations." Hildreth, VI. 308-10.) Henry Dearborn, late Secretary of War, and since Madison's accession, Collector of the port of Boston, was appointed first Major-General, with the command of the Northern Department. Thomas Pinckney of South Carolina, was appointed second Major-General, with the command of the Southern Department. Brigadier-General Hull, Governor of the Michigan Territory, commanded

in the Northwest, from which quarter the first attack was to be made.

England was to be reached by depriving her of her Canadian provinces, which, it was confidently expected, would fall an easy prey to the armies of the Union.

The sequel showed that the only effective victories in this quarter were those won on Lakes Erie and Champlain by the despised navy. As to the condition of Canada at this time see: Hildreth, VI. 335, 6.

The Financial Condition of the Country at the Outbreak of War.— Between the years 1801 and 1811, the customs duties had sufficed, besides paying the ordinary expenses of the Government, to pay annually the interest on the national debt $2,200,000, and over $4,000,000 of the principal, leaving unpaid about $45.000,000. The embargo and non-intercourse acts had caused the annual revenue from customs duties to fall from $15,000,000 to about $6,000,000. Gallatin in his report of November, 1811, estimated the revenue for the ensuing year, under existing circumstances, at $6,600,000; the expenditure at $9,200,000. "To provide for the deficiency an addition of 50 per cent to the existing duties on imports would be required and was preferable to an internal tax." (Life of Gallatin, 446.) "In case of war," continues Mr. Gallatin, "the United States must rely solely on their own resources." If the United States wished to borrow money they must pay for it. "It may be expected that legal interest will not be sufficient to obtain the sums required. In that case the most simple and direct is also the cheapest and safest mode. It appears much more eligible to pay at once the difference, either by a premium in lands or by allowing a higher rate of interest, than to increase the amount of stock created, or to attempt any operation which might injuriously affect the circulating medium of the country." (Life of Gallatin, 447-9.)

When it became certain that war would be declared, the Committee of Ways and Means asked Mr. Gallatin for war estimates, which he gave in a letter to the chairman of that committee. (January 10, 1812; Gallatin's Writings, I. 501-17; Life of Gallatin, 450-55.) "After doubling the imposts and reimposing the duty on salt, he could promise a net revenue of only $6,000,000 for war times. The committee assumed that annual loans of $10,000,000 would be required during the war, which left an annual deficiency to be provided for by taxation, amounting to $5,000,000, calculat-

ed to cover the interest of the first two loans only, after which additional taxes must be imposed to provide for the interest of future loans." Of the $5,000,000 to be raised by internal taxes Gallatin proposed to obtain $3,000,000 by a direct tax, and $2,000,000 by excise, stamps, licenses, and duties on refined sugar and on carriages. (Life of Gallatin, 452.) The proposal to reimpose internal taxes met great opposition, especially from the old Republicans, or Democrats as they were now called, among whom were many of Gallatin's personal friends. Wright of Maryland said, March 2, 1812, "A system of taxes is presented truly odious .... to the people, to disgust them with their representatives and to chill the war spirit .... Is there anything of originality in his system? No! It is treading in the muddy footsteps of his official predecessors." (Ibid. 453.) Nevertheless Congress had to follow Gallatin's advice in the end. March 14, 1812, an act authorized a loan of $11,000,000 (though it did not provide for the extra interest necessitated thereby.) (Stat. at L., II. 694.) On June 30 an issue of $5,000,000 of interest-bearing Treasury notes were authorized, and on July 1 the customs duties were doubled. (Stat. at L., II. 766, 768.) The question of internal taxes went over for the present. (Hildreth, VI. 281-4; Schouler, II. 344, 5; Life of Gallatin, 452-5.)

In the absence of a United States bank it was found difficult to place the loan, as Mr. Gallatin had predicted. The enlistments, too, went on very slowly, and no naval force had been put on the lakes.

War Begun.—The first military operations were miserably disastrous. July 12, 1804, Hull crossed the Detroit River intending to take Fort Malden. But he was anticipated by the enemy, and after some slight skirmishes was compelled to retreat to Detroit, which place, a month later, August 16, he surrendered at discretion to General Brock, Governor of Upper Canada. "Brock, in demanding surrender, had declared he could not restrain his allies, the Indians, from rapine and murder in case the place should be carried by assault. Hull did not believe he could depend upon the militia for any serious, much less for any desperate, fighting .... the popular clamor demanded a victim for the loss, not only of Detroit, but of the whole Northwest Territory, and the failure to invade Canada. Hull was tried by court-martial and condemned to be shot .... he was nevertheless pardoned by Madison in con-

sideration of his past services." The Government had not suitably re-enforced Hull, and hence was partly to blame for the result. (Hildreth, VI. 336-43; Schouler, II. 357, 8.)

In October and November 1812, another attempt at the invasion of Canada, on the Niagara frontier, ended about as disastrously as the first. (Schouler, II. 359-62.) At the same time an expedition in command of Dearborn in person marched by way of Lake Champlain, but accomplished nothing. (Hildreth, VI. 354-64; Schouler, II. 359; Ingersoll, History of the War of 1812.)

In the mean time the little navy had been doing wonders at sea. August 19, the *Constitution*, 44 guns, in command of Captain Isaac Hull, captured the British frigate *Guerriere*, 38 guns; October 18, the *Wasp*, 18 guns, Captain Jones, captured the Frolic, 20 guns (retaken by the *Poictiers*, 74 guns); October 25, the *United States*, 44, Captain Decatur, captured the *Macedonian*, 38; December 29, the *Constitution*, Captain Bainbridge, destroyed the *Java*, 38.

The news of these victories were received in England with amazement and alarm. It was the first time a British frigate had been forced to strike to a foreigner. It awakened a respect for the United States in the breasts of Englishmen, which all former peace measures had been powerless to effect.

During this year, moreover, American privateers had captured over 300 prizes. (Schouler, II. 362-5; Hildreth, VI, 365-72; Cooper, Naval History, Vol. II.)

Election of 1812.—In spite of weakness shown by the Government, and of the disaffection of the Eastern States in regard to the war, the elections of this year sustained the war policy. Mr. Madison was re-elected by a good majority, with Elbridge Gerry as Vice-President. (Appendix, p. 37; Schouler, II. 368-71; Hildreth, VI. 375-7.

IV. Administration of Madison, Second Term.

Cabinet Changes.—Clay "and his war friends," says Mr. Hildreth, "had been able to force a peace Cabinet unwillingly into war; but the conduct of the war still remained in the hands of the same peace Cabinet, not one of whose members was at all adapted, either by enterprise, energy, knowledge, or enthusiasm, for its successful prosecution." (VI. 385.)

Mainly for this reason, Eustis, Secretary of War, was induced to resign, and was replaced by General Armstrong, January 13, 1813; and Paul Hamilton was superseded by William Jones, January 12, 1813. The personal hostility to Gallatin had destroyed his usefulness; he was appointed, with Bayard and J. Q. Adams, to go on a peace mission to Russia, still nominally retaining the Treasury portfolio. But his successor, George W. Campbell, was finally appointed, February 9, 1814. (Life of Gallatin, 477-91.) Campbell proving inefficient, gave way October 6, 1814, to Alexander J. Dallas of Pennsylvania; Dallas resigned, and was succeeded by William H. Crawford of Georgia, October 22, 1816. Crawford had been Secretary of War from August 1, 1815. Armstrong had retired, September, 1814, and Munroe had performed the duties of the war office *ad interim*. Jones, Secretary of the Navy, gave place to B. W. Crowninshield, December 19, 1814; and Pinckney, Attorney-General, to Richard Rush, February 10, 1814. Also R. J. Meigs succeeded Gideon Granger as Postmaster-General, March 17, 1814. (Hildreth, VI. 385, 6, 401, 413, 415, 16; Schouler, II. 374, 77, 403, 413.

Congress.—"The 13th, or, as it is sometimes called, the War Congress, convened on the appointed day. The new apportionment had increased the number of members to one hundred and eighty-two. Politically, Congress was constituted of Federalists, sixty-eight; Democrats, one hundred and twelve. Henry Clay was elected Speaker by a majority of thirty-five votes. The Federalists were also strengthened by the addition of men afterwards eminent in their country's history. Among these were Daniel Webster, Cyrus King, and Thomas P. Grosvenor." "The Senate stood twenty-seven Democrats, to nine Federalists. The Democratic strength was weakened by the defection of a strong faction led by Messrs. Giles, Lieb, and Smith, which frequently coalescing with the opposition, defeated the measures of the Administration. This Congress was mainly occupied with war measures. (Holmes, Parties and their Principles, 74.)

The Course of the War.—(1) As to the military operations on the northern frontier.

By Hull's surrender the Michigan Territory had been lost. William Henry Harrison, Governor of the Indiana Territory, was now appointed to the command of the armies in the West. He was very popular in that region on account of his late victory over

the Indians at Tippecanoe, November 7, 1811. (Schouler, II. 331-35; Hildreth, VI. 251-9.)

Harrison's attempts to retrieve Hull's disaster at first proved failures. (Hildreth, VI. 359-62, 392-96, 408-10; Schouler, II. 358-9, 382, 3.) Perry's victory on Lake Erie, September 10, 1813, cleared that lake of the enemy, and gave Harrison the means of invading Canada; which resulted in the defeat of the British and Indians on the river Thames, October 5, 1813. (Schouler, II. 382-6; Hildreth, VI. 433-8.)

The second invasion of Canada, made on the Niagara frontier, resulted more seriously than the first.

General Van Rensselaer, in command there, October 13, sent several small columns across the river under General John E. Wool and Colonel Winfield Scott, who were compelled to surrender. The American loss was about 1000 men.

Meanwhile little was done on the northern frontier of New York, and Dearborn soon retired about as much damaged in reputation as Hull had been the year before. General Wilkinson, his successor, made no better success; and he was finally recalled and tried by court martial.

The Secretary of War, General Armstrong, persisted in the plan of invading Canada. A force was again sent over the Niagara frontier, which fought, under Generals Brown and Scott, the brilliant battles of Chippewa, July 5, 1814, and Lundy's Lane, July 15; but these battles had no practical result. (Schouler, II. 386-8, 403-6; Hildreth, VI. 439-45, 489-90, 492-9, 520, 537.)

Instead of conquering Canada, the American army was called upon to repel a serious invasion by way of Lake Champlain. Here the navy again performed most excellent service. McDonough's victory on Lake Champlain, September 11, 1814, forced the British army to retire. (Hildreth, VI. 518-20; Schouler, II. 406.)

(2) Military operations on the Southern borders.—The war in the South was at first confined to the Indians. Under the influence of Tecumseh (killed at the battle of the Thames), and his brother, the Prophet, the Creek Indians of Georgia and Alabama, as did the Indians of the Northwest, took sides against the United States. The massacre at Fort Mimms, in Southern Alabama, of over 300 whites, August 30. 1813, was the signal for war. Thereupon a vigorous invasion of the Creek country took place. Of the commanders, General Andrew Jackson became the most promi-

nent. The Creeks suffered a final defeat at the Great Bend; and by the treaty of Fort Jackson, August 9, 1814, ceded over three-fourths of their territory, comprising the greater part of what is now Alabama. (Stat. at L., VII. 120; Hildreth, VI. 446-51, 477-81; Schouler, II. 388-92.)

In November, Jackson having taken Pensacola and handed it over to the Spanish authorities, hastened to New Orleans to repel an expected attack. On the 8th of January, 1815, the British army under General Pakenham, was repulsed before New Orleans with a loss of over 2000 killed and wounded. This most brilliant exploit of the war took place after the signing of the treaty of peace in Europe. (Schouler, II. 438-44; Hildreth, VI. 539, 557-65; Parton, Life of Jackson, II.)

(3) War on the seabord.—Commencing with a few of the principal ports, Great Britain gradually extended the blockade of the coast from Montauk Point to the mouth of the Mississippi. (November, 1813.) As yet New England had been spared, except New London, on account of her opposition to the war; but in the spring of 1814, the principal New England ports were also blockaded, and several towns were captured. (Hildreth, VI. 402, 422-26, 451, 484-6, 515; Schouler, II. 394-5.)

In the summer of 1814, a descent was made upon Eastport, which caused general alarm throughout New England. At the same time a large British squadron in command of Admiral Cochrane entered the Chesapeake. Troops were landed, August 19-20, who marched upon Washington, defeated an American force at Bladensburg, August 24, 1814, and the next day entered the city and burnt all the public buildings and property, in retaliation, it was said, for the burning of the Parliament House at York (Toronto) by the Americans, April 27, 1813. The fleet in the mean time captured Forts Washington and Alexandria on the Potomac. Retiring again to the Bay, an attack was made upon Baltimore and Fort McHenry September 13, which was bravely met and repulsed. (Hildreth, VI. 499-518; Schouler, II. 407-12.)

(4) The Navy. This branch of the service, although having made a brilliant record in the first year of the war, found the odds against it too great. The ships as they came into port for repairs were one after another shut up by the blockade, until, in October, 1814, there was not one at sea. Even on Lake Erie the British had again got the ascendency. Individual vessels, however, occas-

ionally got to sea, and generally did good service. (Hildreth, VI. 399-400, 403, 421-2, 430-2, 485-8, 523, 555, 56, 572, 3; Schouler, II. 392-4; Cooper, Naval History, II.)

Jefferson's gun-boats were of no practical service during the war, and those that were left were ordered to be sold at its close. (Hildreth, VI. 500, 504, 572.)

Privateers, authoized by the Act of June 26, 1812, did much damage to British commerce. (Hildreth, 416, 573; Schouler, II. 455.)

(5) Finances during the war.—Finally after a year's delay, Congress passed an act for the levying of direct taxes and internal duties; July 22, 1813. (Stat. at L., III. 22; Ingersoll, History of the War of 1812-15, I. 218-22; Hildreth, III. 415-16.) From time to time additional articles were made subject to internal duties; the average duration of these taxes was three years, being repealed soon after the close of the war. Before this system could be got into operation, however, there was pressing need of money, which was provided by the issue of treasury notes, and by loans. The issue of such notes during the course of the war amounted to $40,000,000, and they depreciated at times to 17 per cent below par. The loans contracted were: 1812, $5,000,000; 1813, $23,000,000; 1814, $34,000,000; 1815, $24,000,000; in all, $98,000,000; which increased the debt to 123,000,000. The bonds fell to 30 per cent below par. (On the subject of taxation during the period of the war, see: Ingersoll, pp. 218-58, and especially tables, pp. 239, 256.)

Of the Government loans contracted during the war the Eastern States (because opposed to the war) furnished only $2,900,000; the Western and Southern States, 2,320,000; and the Central States—mainly the cities of New York, Philadelphia, Baltimore, and Washington—$35,790,000. (Writings of Gallatin, III. 284.) The Government found great difficulty in borrowing money; one reason of which was the discontinuance of the Bank of the United States on the eve of the war, and the consequent confused state of the currency. A great number of State banks were chartered, many more in fact than were wanted.

The following table shows the effect upon the number, the capital, the notes, and the specie, of the expiration of the charter of the U. S. Bank.

Year.	No. of Banks.	Capital.	Notes.	Specie.
1811, Jan. 1,	Bank of U. S.	$10,000,000	$5,400,000	$5,800,000
1811, Jan. 1,	88 State banks.	42,600,000	22,700,000	9,600,000
	Total,	52,600,000	28,100,000	15,400,000
1815, Jan. 1,	208 State banks.	82,200,000	46,300,000	17,000,000
1816, Jan. 1,	246 State banks.	89,000,000	68,000,000	19,000,000

At the expiration of the charter the notes of the bank were withdrawn from circulation; but in 1814, the state banks, except those of New England, suspended specie payments, and by January 1, 1816, the number of state banks had increased from 208 to 246, and their circulating notes from $46,300,000 to $68,000,000. In 1819, at the return to specie payments, the circulating notes declined to $45,000,000 — about the normal amount. (For a different estimate see Gouge on Paper Money, p. 220.) The heavy drain from the banks of the Central States in loans to the Government, together with the loss of $7,000,000 in gold of foreign capital caused by the winding up of the United States Bank, caused a too great enlargement of their issues of circulating notes and their consequent depreciation. Hence, the specie in part was driven from the country, and in part was drawn to New England to supply the needs of commerce increased through the temporary exception of the New England coast from the general blockade. The specie in the Massachusetts banks increased from $1,709,000 in 1811 to $7,326,000 in 1814. The specie was necessary to the New England banks, under the Suffolk Bank system, to maintain their specie payments. This system was adopted by the New England States, after the crisis of 1809, under the Banking Law of 1812 requiring all banks to redeem their notes on demand. In 1813 the New England Bank was chartered in Boston as a central office for the redemption of the notes of all banks. This system, though unpopular at first, kept the notes at par, and was afterwards adopted by other States. (Sumner, History of American Currency, 61-70; Gallatin's Writings, III. 278-89; Ingersoll, II. 249-52; Schouler, II. 415-17.)

When Mr. Dallas became Secretary of the Treasury (October 5, 1814) one of his first acts was to recommend, as a means of supplying a uniform circulating medium, and a resource in the way of loans, a national bank with a capital of $50,000,000. After a

long and obstinate debate a Bank Bill was passed conforming in the main to the plan of Dallas (January 20, 1815); but it was vetoed by the President on the ground, not of its unconstitutionality, but because of the inadequacy of the proposed bank to accomplish the ends intended. (Hildreth, VI. 541-3; Young, Am. Statesman, 273; Ingersoll, 253-63; Tucker, III. 123-6; Benton, Deb., V. 362-86, 401-13.)

The Bank project succeeded the next year. (April 10, 1816.) A bank was established nearly on Dallas' plan; the capital to be $35,000,000, one-fifth to be subscribed by the Government. There were to be 25 directors, of whom the Government should appoint five. The Bank must establish an office of discount and deposit in the District of Columbia on demand of the Government, and in any state in which 2000 shares of stock should be held, on application of the state and the requisition of Congress. The Bank should be entitled to the deposit of the public moneys unless the Secretary of the Treasury, *on reasons to be at once laid before Congress*, should otherwise direct. (Hildreth, VI. 588-91; Stat. at L., III. 266; Schouler, II. 446-9; Ingersoll, II. 263, 4; Sumner, 73; Gallatin's Essay on Currency and Banking, Writings, III. 235 *et seq.*)

6. *Federalist Opposition to the War.* — When the war was declared, "Thirty-four representatives of the minority published a vigorous protest, in the form of an address to their constituents, both against the war and the manner in which the declaration of war was brought about"; they would have no share in the misfortunes of the war, nor would they help to give "implied validity to so flagrant an abuse of power." (Niles' Register, II. 309-15; Von Holst, I. 235.) The Federalists declared that the war was a party and not a national war, and that it was not their duty to support it in any way. They looked upon a war with England with great abhorrence, both as suicidal in regard to our own interests, and as immoral, inasmuch as it was the "taking sides with a tyrant hostile alike to the rights of nations and the rights of men." (Hildreth, II. 324; also Ib. 313-25; Schouler, II. 255-6; Von Holst, I. 234-44; Curtis, Life of Webster, I. 117, 8.)

Previously to the declaration of war, April 10, 1812, Congress had authorized the President to call upon the executives of the several states to hold in readiness their respective quotas of the 100,000 militia provided for; also "to call into actual service any

part, or the whole, of said detachment in all the exigencies provided for by the Constitution," — that is to say: to execute the laws of the Union, to suppress insurrections, and to repel invasions. (Stat. at L., II. 705; Constitution, Art. I. Sect. 8, Cl. 15, 16.)

Under the authority of this act and of the Constitution the President through the Secretary of War called upon the Governors of Connecticut and Massachusetts to order into the service of the United States, on the requisition of Major General Dearborn, such part of the quota of militia . . . . as he may deem necessary for the defence of the sea-coast." (Dwight's Hartford Convention, 238.) The forty-one companies required from Massachusetts "were ordered to different places in that state and in Rhode Island. Two Lieutenant-Colonels were called for from the militia; but no officer of a higher grade." No officers of any description were in the call for five companies from Connecticut. They were to be placed under the command of officers of the United States army, at different points along the sea-coast.

The governors of those states refused to call out the militia, and for two reasons: (1) That the militia could not be called out upon the requisition of the General Government except in a case declared and founded upon the existence of one of the *special exigencies* mentioned in the Constitution; that none of those exigencies existed in the opinion of the Governors of Connecticut and Massachusetts; (2) That when called out the militia could not be taken from the command of the officers appointed over them by the states, or commanded by any other officer except the President of the United States. (Constitution, Art. II. Sect. 2, Cl. 1; Kent, I., 262; Story, III. §§ 1194-1210; Dwight, History of the Hartford Convention, 234 *et seq.*) The Governor of Massachusetts referred the question to the Supreme Court of that state; who were of opinion that it belonged to the governors of the several states to determine when any of the exigencies contemplated by the Constitution existed; that such power was not expressly granted to the President, and hence it was reserved to the states.

On the other hand, President Madison, in a message to Congress, November 4, 1812, said: "If the authority of the United States to call into service and command the militia for the public defence can be thus frustrated even in a state of declared war, and of course under apprehension of invasion preceding war, they are not one nation for the purpose most of all requiring it." (Stat. Man., I. 300.)

In 1827, the Supreme Court, in Martin *vs.* Mott, were of opinion that the President is the exclusive judge of the existence of the *exigencies* contemplated by the Constitution. (Appendix, p. 34.) Moreover, that the President may make his requisition directly upon the executive of the state, or upon the militia officers. And the militia when "called into the service of the United States are subject not only to the orders of the President as commander-in chief, but also to those of any officer outranking their own who may, under the authority of the commander-in-chief, be placed over them." (Cooley, Const. Law, 88, 89; Militia Act of 1795, *Supra*, p. 55; Kent, I. 264-5.)

On account of the refusal of Massachusetts and Connecticut to place their militia at the disposal of the General Government, the executive withheld all assistance from those states when in 1814 they were obliged to repel an actual invasion. The support of their own militia, together with the federal taxes, made a heavy burden for them.

It was largely owing to New England disaffection, and her refusal to aid in carrying on the war by either money or men, that the attempts to invade Canada were such lamentable failures. (Schouler, II. 417-23; Ingersoll, I. 59-73, 482-90; II. 65; Hildreth, VI. 378-86, 426-30.)

The Hartford Convention. — On account of the danger of invasion in 1814, the Legislature of Massachusetts received memorials from many towns praying that they would protect the citizens in their constitutional rights, and suggesting that delegates be appointed "to meet delegates from such other states as might think proper to appoint them, for the purpose of devising proper measures to procure the united efforts of the commercial states, to obtain such amendments and explanations of the Constitution as will secure them from further evils." A joint committee to which these memorials had been submitted reported February 4, 1814, that they recognized the right of acting in concert with other states, but thought the exercise of this right at present inexpedient. (Niles' Register, VII. 151.) But on October 16 the Massachusetts House of Representatives resolved, "That twelve persons be appointed as delegates .... to meet and confer with delegates from the other New England states, or any other, upon the subject of the public grievances and concerns; and upon the best means of preserving our resources, of defence against the

enemy; and to devise and suggest for adoption by those respective states such measures as they may deem expedient; and also to take measures, if they shall think it proper, for procuring a convention of delegates from all the United States, in order to revise the Constitution thereof, and more effectually to secure the support and attachment of all the people, by placing all upon the basis of fair representation." October 18 the Legislature elected the delegates by a vote of 226 to 67; and copies of their proceedings were sent to the other states. (Dwight, 342.)

Thereupon the Connecticut Legislature resolved, "That seven persons be appointed delegates to meet the delegates of the Commonwealth of Massachusetts, and of any other of the New England states, at Hartford, on December 15, and confer with them on the subjects proposed . . . . *as may consist with our obligations as members of the National Union.*" (Niles' Register, VII. 158.) The convention assembled at the appointed time and place. Massachusetts sent twelve delegates; Rhode Island four; Connecticut seven; New Hampshire sent three, and Vermont one, who were chosen by county conventions. George Cabot of Massachusetts was chosen president, and Theodore Dwight, secretary.

President Madison, fearing that the Eastern States might determine to withdraw from the Union, and separately make peace with Great Britain, stationed Major Jessup with his regiment at Hartford, nominally as a recruiting agent, but really to watch the convention.

The convention adjourned after a secret session of three weeks, having embodied their views in a report to the legislatures which they represented. (Dwight, History of the Hartford Convention, 352-79.) In this document are detailed the causes of the evils then existing, and the proper remedies therefor. "Should it appear," they say, "that the existing calamities grew out of implacable combinations of individuals or states to monopolize power, and to trample on the rights and interests of the commercial section of the Union, then indeed, a separation by equitable arrangement would be preferable to an alliance by constraint between *nominal* friends, but *real* enemies." But separation, especially in time of war, would be justifiable only in the case of absolute necessity. (Ib. 355.) "In cases, however, of *deliberate*, *dangerous*, and *palpable* infractions of the Constitution, affecting the sovereignty of a state and the liberties of the people, it was not

only the right, but the duty also, of the state to *interpose* its authority for their protection."[1] (Ib. 361.) Again, "when emergencies occur which are beyond the reach of the judiciary tribunals, or too pressing to admit of the delay incident to their forms, states which have no *common umpire*, must be their own judges, and execute their own decisions. It will thus be proper for the several states to await the ultimate disposal of the obnoxious measures recommended by the Secretary of War, or pending before Congress, and so to use their power according to the character these measures shall finally assume, as effectually to protect their own sovereignty and the rights and liberties of their citizens." (Ib. 361, 2.)

The chief causes of complaint were: "The pretensions advanced, and the authority exercised over the militia, by the executive and legislative departments of the National Government. Also, the destitution of the means of defence in which the Eastern States were left." (Ib. 356.) The views of the constitutionality of the authority of the General Government over the militia, as previously asserted by Massachusetts and Connecticut, were re-affirmed. (Ib. 356-61.) In the first of the resolutions appended to the report, it is recommended to the New England States to adopt measures to protect their citizens from the operation and effects of all acts of Congress, subjecting the militia to forcible drafts, conscriptions, or impressments, not authorized by the Constitution of the United States. (Ib. 376.)

Here was set forth principles of nullification, as plainly stated as it was by South Carolina a few years later. This, coupled with the statement in the report that, not the Supreme Court, but the State, was to be the judge, in certain cases, of infractions of the Constitution, embodied the whole doctrine of State sovereignty.

As to means of defence, "it would be impossible, in the ruinous state of their commerce, for the New England States to defend themselves, except by the appropriation to that purpose of a reasonable portion of the heavy taxes levied on them by a government bound to protect them, but failing to do so." To secure such appropriation the states were advised to send a Committee to Washington. Several amendments to the Constitution were

1 This was the exact argument used by Madison in the Virginia Resolutions of 1798. (*Supra* p. 61.)

proposed: "The basing representation on free population; making the President ineligible for a second term; disqualifying persons of foreign birth to hold office; limiting embargoes to sixty days; requiring a two-thirds vote in Congress to admit new States, to interdict commercial intercourse, to declare war, or to authorize hostilities, except in cases of invasion." In the event of failure of the petition for appropriation of revenue, or of no change otherwise for the better, a new convention should meet in Boston in June; and in an emergency, meanwhile, the officers of the convention could re-assemble it. (Ib. 376-8).

This report having been accepted by the legislatures of Massachusetts and Connecticut, commissioners were sent to Washington to lay before Congress the proposed arrangement as to taxes. But while on their way to Washington news was received of the Battle of New Orleans and of the conclusion of the Treaty of Ghent; and this left the commissioners nothing to do but to return home.

Amidst the general rejoicing over the advent of peace the doings of the Hartford convention fell into contempt, and the leaders in the movement had to defend themselves against the charge of treasonable intent. It was maintained, too, that the proceedings were in direct contravention of Art, I, Sect. 10, of the Constitution: "No state shall enter into any treaty, alliance, or confederation." . . . . And "no state shall, without the consent of Congress, enter into any agreement or compact with another state." (Appendix, p. 20.) As no action was taken to carry into effect the resolutions of the convention, the whole question resulted merely in a war of words.

The History of the convention by Theodore Dwight, its secretary, published in 1833, is a full, but not impartial, account of the proceedings of the convention and the causes which led to it, going back to the beginning of Mr. Jefferson's administration. Mr Henry Cabot Lodge gives also a favorable view (Life of George Cabot, 410-526, 527-63.) An adverse account of the convention is given by Mr. J. Q. Adams (New England Federalism, 1800-1815, pp.——). In the appendix to this volume Mr. Henry Adams, the editor, publishes letters bearing upon this subject, written by leading Federalists, particulaly those of Timothy Pickering.

The secret journal of the Hartford convention may be found in Dwight's History, p. 383.

Upon the general subject, see also: Hildreth, VI. 472-3, 532, 3, 545-53; Schouler, II. 424-30; Niles' Register, VII. 151, 158, 180, 269, 70, 305; Von Holst, I. 244-72, notes important.

The Treaty of Ghent.—The treaty of peace with England was signed Dec. 14, 1814 — a fact not known in this country till Jan. 1815. It was ratified Feb. 17, 1815. The commissioners of the United States were J. Q. Adams, Henry Clay, James K. Bayard, Jonathan Russell and Albert Gallatin; those of England were Lord Gambier, Henry Goulburn and William Adams.

The treaty makes no mention of the great questions — especially impressment — in which the war originated; for the Americans were extremely desirous of peace, and England had had enough of war. Still, among other extravagant demands, England proposed that its Indian allies should be allowed a neutral region between the territories of England and those of the United States. This the United States would not listen to.

Art. IV. provided for a commission to settle the location of the "Highlands" and of the Northeastern head of the Connecticut River, and to survey the boundary from the source of the St. Croix to the Iroquois or Cataraquy (St. Lawrence). This article provides that if the commissioners could not agree the question should be referred to a friendly power. It was referred to the King of the Netherlands, but his decision was not accepted and the boundary was not settled till 1842.

There was no agreement in regard to fisheries.[1] England maintained that the war had abrogated all former treaties, thus annulling the right of citizens of the United States to fish on British shores.

Art. X. stipulated that both parties should endeavor to secure the entire abolition of the slave trade (which was abolished in the United States in 1808 and in England in 1807). (United States Treaties, 336, 1020-24; Hildreth, VI. 566-9; Schouler, II. 431-8; Life of Gallatin, 519-46; Diary of J. Q. Adams, III; Morse, Life of J. Q. Adams, 77-98.)

The treaty of peace in 1815 closes the first period of our history under the Constitution — the formative period. During the early years of the Constitution no man could say positively that the experiment of a Federal Republic would be a success. Many were skeptical from the first, others were sanguine of success if

[1] A convention in 1818 settled the question of the fisheries.

only the Government could be organized in accordance with their own ideas. In the struggle for the supremacy of its policy each party believed that the policy of its opponents would lead to the overthrow of the Republic and the destruction of the liberties of the people. In view of such a catastrophe it was not uncommon to hear mentioned the question of a separation by a state, or a number of states, from the Union. At the end of the war of 1812-15, however, this spirit of state or local pride began to give way to a feeling of national loyalty; the victories of the navy, and that at New Orleans, touched the national heart; even New England forgot past evils and was carried along with the tide of enthusiasm. Party leaders could no longer hold the masses together on mere questions of forms of government. The war had brought about the final extinction of party lines, and the nation stood, for the first time, united and ready to work out its destiny, free from foreign complications or domestic disputes.

The war had an economic effect, the discussion of which belongs to the next period.

CHAPTER IV.

Administrations of Monroe and J. Q. Adams — 1817–1829.

I. Monroe's Administration — First Term.

Cabinet Officers:
Secretary of State, J. Q. Adams.
Secretary of the Treasury, Wm. H. Crawford.
Secretary of War, J. C. Calhoun.
Secretary of the Navy, { B. W. Crowninshield. / Nov. 9, 1818, Smith Thompson.
Attorney-General, William Wirt.

Mr. Monroe was elected President in 1816, and Daniel D. Tompkins Vice-President, with little opposition. (Appendix, p. 37.) Except in New England, the Federalist strength was entirely broken; party lines were becoming obliterated. But the new men, of whom Clay and Calhoun were the leading spirits, adopted all the old Federalist doctrines, and Monroe, although of the old school, fell in with the new ideas. So we find him advising, in his first address, adequate naval and military forces, sea-coast defenses, a protective tariff, and internal improvements. (Stat. Man., I. 393-5.) The war had demonstrated the weakness of the Jeffersonian policy, at least as regarded our foreign relations. Mr. Monroe was considered to be the best equipped, by his long and varied experience, of the men of his time: his cabinet, too, compares favorably with any before or since his administration. (Hildreth, VI. 620-23; Schouler, II. 458-63; Tucker, III. 196-9; Sargent, "Public Men and Events," I. 17-19.)

The party issues of the past were mostly dead; the great questions now to be settled related to the general interests of the country — economic questions of internal policy: such as the tariff, internal improvements, the chartering of a national bank, etc., which found supporters in both the old political parties.

Manufactures. — The embargo and non-intercourse acts of 1807-1812 had nearly annihilated the commerce of the United

States. And for the same reason had greatly stimulated the growth of home manufactures, and especially of the great staples, cotton, wool, and iron, which had been largely imported from England. At the breaking out of the war the doubling of the duties (making them average about 30 per cent) created a strong protective tariff, which gave another impetus to the erection of manufacturies.

In 1810 the value of manufactures was estimated at about $170,000,000. Manufactures of cotton, wool and flax reached the sum of about $40,000,000; of iron, $14,000,000; of hides and skins, $18,000,000; of liquors, $16,500,000; of wood, $5,500,000. At that time Pennsylvania was the leading manufacturing state, followed by Massachusetts, New York, Virginia, Maryland, Connecticut, North Carolina. (Bishop, History of American Manufactures, II. 161-3.)

These statistics were based upon Gallatin's report on the census of 1810. In the general estimate is included the product of household manufactures, which formed a very large percentage,—in the case of clothing, hosiery, and linen, about two-thirds. In 1813 Mr. Teuch Coxe estimated that the annual value of the manufactures of the United States had increased 20 per cent over that of 1810. (Bishop, II. 191.) The increase was still more rapid during the remaining years of the war by reason of the war duties and the great demand for war purposes, and the consequent high prices. (Sumner on Protection, 35.)

Thus by merely incidental circumstances, manufactures had, in the period from 1807-15, grown to proportions only second in importance to agriculture and commerce.

But the return of peace would remove the conditions upon which their growth had depended. It would reduce the duties by one-half,[1] at the same time that the ports would be opened to the influx of English goods. Further, the return of peace would materially reduce the demand for many kinds of goods. In other words, things would return to their normal condition. But this would destroy the manufacturing industries which the war had nourished. "It was necessary, therefore, to secure a continuance of the circumstances which had brought these industries into existence, in

1 The act of 1812, doubling the duties was to be continued in force till one year after the close of the war. The Act of February 5, 1816, continued the double duties until July 1; but they were superseded by the Tariff Act of April 27, 1816.

order to secure them from destruction." (Sumner, on Protection, 36.) "Immense cargoes of foreign manufactures were already crowding the portals of the nation before peace had thrown open the gates of commerce, and several petitions had gone up to congress to avert the danger which was impending. Many branches of the domestic industry were yet new and imperfectly established, and few of the more recent enterprises had yet reimbursed the heavy expenses incidental to first undertakings on a large scale." (Bishop, II. 211.)

During the first three-quarters of the year following the peace the value of foreign goods imported amounted to over eighty-three millions of dollars; and during the next ensuing year, to one hundred and fifty-five and a quarter of millions. (Ibid.)

In order to break down the formidable rivalship of growing manufactures in America, English merchants made heavy consignments of goods to this country to be disposed of at auction, and upon the most liberal credits. Mr. Brougham said in Parliament that "it was even worth while to incur a loss upon the first exportations, in order by the glut to stifle in the cradle these rising manufactures of the United States, which the war had forced into existence, contrary to the natural course of things." (Bishop, II. 211-12.)

American merchants were not averse to these transactions; and the greatest life and activity were given to all the avenues of trade; ship-yards were set at work, banks extended their credits to an unlimited amount, "and thereby stimulated all classes to seek their fortunes in mercantile operations and the largest ventures." (Ibid. 212 and note 1.)

But to the manufacturers the enormous importations at the return of peace had the most disastrous consequences. Many were obliged to close their factories, others continued at a loss, often ending in total bankruptcy. Large numbers of workmen were obliged to seek other employment. In the case of cotton manufactures, another adverse element was the rise in the price of raw cotton, caused by the revival of the foreign demand, from 13 cents in 1814 to 20 cents in 1815, and 27 cents in 1816. This industry was saved from total destruction only by the opportune introduction of new and improved machinery, particularly the power loom. According to a report of the committee of commerce and manufactures (1816), the capital invested in

cotton manufactures in 1815 amounted to $40,000,000, and the value of the production to $24,300,000. (Bent. Deb., V. 588.)

The woolen manufactures represented a capital of $12,000,000, and the goods manufactured, $19,000,000. These industries would be imperilled by the return to the normal conditions of trade existing before the war; it was natural, therefore, that those interested in them should apply to Congress to save them by means of prohibitory or protective duties. (Bishop, II. 223-5; Hildreth, VI. 586.)

In his seventh annual message (December 5, 1815) President Madison urged upon Congress the necessity of encouraging manufactures, but as an exception to the general rule;[1] "experience teaches that so many circumstances must concur in introducing and maturing manufacturing establishments, especially of the more complicated kinds, that a country may remain long without them, although sufficiently advanced, and in some respects even peculiarly fitted for carrying them on with success." (Stat. Man., I. 331; Bishop, II. 214-15.)

Mr. Jefferson, too, had changed his opinion upon this subject: "We must now place the manufacturer by the side of the agriculturist." "Experience has taught me, that manufactures are now as necessary to our independence as to our comfort." (Letter to Benjamin Austin, Jan. 9, 1816; Bishop, II. 221.)

Tariff of 1816. — On February 13, 1816, Mr. Dallas, the Secretary of the Treasury, sent to the House an elaborate report on the subject of a tariff. The annual revenue required, as estimated by the Committee of Ways and Means, was about $24,000,000, of which sum $7,000,000 were proposed to be raised by direct taxes and internal duties, and $17,000,000, by customs duties. (Bishop, II. 222.)

Mr. Dallas divided important articles subject to duty into three classes:

(1) Those of which the home supply equalled the demand. This class comprised manufactures of wood, carriages, cables, hats, iron castings and fire arms, window-glass, leather paper, printing types.

(2) Manufactures, which being but partially established did not supply the domestic demand, but which might be made to do

1 Compare Madison's opinion on protection in 1789 (*supra*, p. 20.)

so. These embraced cotton and woolen goods of the coarser kinds, iron manufactures of the larger kinds, pewter, tin, copper, spirits and beer.

(3) Those produced at home very slightly or not at all. These comprised the finer kinds of cotton and woolen goods, the manufactures of flax, hemp, and silk, hardware and cutlery.

Upon the first class Mr. Dallas proposed duties nearly or quite prohibitory, leaving it to domestic competition to keep down the price. Upon the second class, an average duty of 20 per cent, which would still allow of foreign competition. Cotton and woolen goods were, however, to be rated somewhat higher, the former 33 1-3 per cent, and the latter 28 per cent.

Upon the third class the rate of duty could be adjusted with reference to revenue merely.

On the 12th of March, 1816, Mr. Lowndes, chairman of the Committee of Ways and Means, reported to the House a bill based on Dallas' report, to regulate the duties on imports and tonnage, with a primary view to the encouragement of domestic manufactures, particularly those of cotton and wool. On the 20th of the same month, the House entered upon the consideration of the subject.

Mr. Clay was in favor of "a decided protection to home manufactures by ample duties." He moved an amendment to increase the duty on cotton from 25 to 33 1-3 per cent. (Annals of Congress, 1st Session, 14th Congress, p. 1237-8.) Mr. Ingham, of Pennsylvania, supported Mr. Clay's motion, and said that "the revenue was only an incidental consideration, and ought not to have any influence in the decision upon the proposition before the committee." (Benton, Deb., V. 628.)

There was a pretty general concurrence of opinion as to the necessity of a protective tariff, but a difference as to the degree of protection proper to be granted to manufactures. "A portion of the commercial and landed interests which had suffered from the causes that created and sustained manufactures, now felt themselves entitled to be relieved from all unnecessary burthens in support of an industry which had thriven during their embarrassments. They were disposed to limit the duties to such rates and duration as was compatible with the object which all were disposed to cherish." (Bishop, II. 226.)

The warmest supporters of the bill were from the Middle and Southern States. Mr. Calhoun believed the security of the country

depended upon the establishment of home manufactures; since, in case of war, the foreign markets might be closed to us, and both commerce and agriculture depended largely upon them. (Benton, Deb., V. 640-43; Young, Tariff Legislation, p. 38.)

Mr. Randolph opposed the bill, objecting to the principle of protection — "the levying of an immense tax on one portion of the community to put money into the pockets of another." (Ibid. 640, 45.)

The minimum principle was introduced for the first time in this bill, in connection with low-priced cottons: "That all cotton cloths etc., ... (excepting nankeens imported directly from China), the original cost of which at the place whence imported, [with the addition of the usual 20 and 10 per cent] shall be less than twenty-five cents per square yard, shall, with such addition, be taken and deemed to have cost twenty-five cents per square yard, and shall be charged with duty accordingly." The same principle was applied to certain cotton yarns costing sixty and seventy-five cents per pound, respectively. (Stat. at L., III. 311.)

The object of this was to exclude the coarse, low-priced India cottons, then imported in large quantities to the prejudice of the American manufacturer and cotton grower. (Bishop, II. 226.)

Mr. Webster, who was in favor of a moderately protective tariff which should be permanent, opposed, in behalf of the commercial interests, this minimum principle, which would destroy the India trade then employing forty ships. (Ibid. 227.)

The ad valorem duties, as finally fixed, ranged from 7½ to 30 per cent. But there was a great increase in the number of articles charged with a specific duty.

The manufacturing industries most interested in the tariff were those of cotton, wool, iron, and the sugar growers. (See Appendix, p. 40, for the rate of duty on a few leading articles.) The duty on cotton and woolen goods was to be 25 per cent for three years and thereafter 20 per cent. By act of Congress of April 20, 1818, the duty of 25 per cent was to continue till 1826.

The bill became a law April 27, 1816. (Stat. at L., III. 310; Young, Tariff Leg., 37-40; Hildreth, VI. 585-8; Bishop, History of Manufactures, II. 225-9; Sumner, Lectures on Protection, pp. 36-9; Benton. Deb., V. 628, 632, 636-45; Curtis, Life of Webster, I. 152, 3.)

"Thus was inaugurated," says Mr. Benton (Deb. V. 645, note) "a new policy with respect to the imposition of duties on imports.

Before the war of 1812, revenue had been the object of these duties, and protection to manufactures the incident. Now this policy was reversed. Protection became the object, and revenue the incident, often disregarding revenue altogether."

This tariff did not wholly satisfy the more ardent friends of protection; yet it was a very considerable advance upon the duties before the war. "It doubtless averted the speedy ruin which would otherwise have overtaken several branches of manufactures, and probably destroyed that of cotton altogether. (Bishop, II. 229.) But the benefits expected from it increased the competition, and this added to the increased enterprise in foreign manufactures, and the resumption of specie payments, brought the greatest disasters upon the manufacturing classes. (Ibid.)

During the following years manufacturers continued to clamor for higher duties. Congress took action so far as to pass an act April 20, 1818, increasing the duty on pig iron to $10 per ton, and iron in bar not rolled, to $15 per ton. (Stat. at L., III. Bishop, II. 242.)

At this time, too, for the greater strictness in the collection of duties, the custom-house appraisement was adopted.

An act was also passed closing the ports of the United States against British vessels coming from any British colonial port from which American vessels were excluded. (Bishop, II. 241.)

The Finances. — As a result of the higher duties and the large importations the revenue from customs was greatly increased — to upwards of $36,000,000 in 1816.

In view of the favorable treasury balance it was proposed to abolish all the remaining internal taxes, which was accordingly done December 23, 1817, except as to the duty on salt. Lowndes and some others who were in favor of internal improvements at the expense of the General Government, would have retained the internal taxes to be applied to this purpose, but the popular cry for repeal was too strong. (Hildreth, VI. 630.) The condition of the national industry did not correspond with the prosperity of the finances. Manufactures were greatly embarrassed; and the great inflation of irredeemable bank paper, in consequence of the suspension of specie payments in 1814, had caused speculation and wild trading, increased by the abundance of foreign goods thrown upon the market at the close of the war.

The Bank, chartered in 1816, got into working order early in 1817, and forced the state banks to resume specie payments. By

a resolution of Congress, paper money was not receivable for government dues after the 20th of February, 1817, the day on which the New York branch went into operation. But the balance of trade was largely against the United States, and the drain of specie to pay this balance greatly embarrassed trade, and finally "forced the banks to contract, and many of them to break, involving an immense depreciation of property and entailing bankruptcy upon many individuals and companies." (Bishop, II. 235.)

The Second National Bank was organized at Philadelphia, with branches at Baltimore, New York, and Boston; branches in other states were established not long after. The mismanagement and peculations of the president (Wm. Jones, late Secretary of the Navy) and directors had brought the bank to the verge of stoppage in 1818. In December of that year Congress ordered an investigation of its affairs. The committee of the House appointed for this purpose made a report January 16, 1819, charging the board of directors with violating the bank charter in several instances. And on February 1 the same gentlemen presented a resolution to the effect that, if the corporation did not provide better regulations for the management of their affairs, then the Secretary of the Treasury should be instructed to *withdraw from the bank the government deposits*, and the Attorney-General should be required to sue out a writ of *scire facias*, calling upon the corporation to show cause why its charter should not be declared forfeited. These resolutions were afterward withdrawn. But they caused Mr. Jones to resign; and Mr. Langdon Cheeves was appointed to his place. (Tucker, III. 239-49; Hildreth, VI. 650-4.)

The energetic measures of Mr. Cheeves saved the bank, and specie payments were maintained at the principal centers of commerce, but the currency out of New England was left in a very dilapidated condition. (Hildreth, VI. 679-81.)

It was during the same time that some of the states hostile to the bank attempted to tax the branches within their limits out of existence. In 1819 the Supreme Court in the case of M'Culloch *vs.* the State of Maryland (Appendix, p. 32) decided that Congress had power to incorporate a bank, and that the bank and branches were exempt from taxation by a state. For an account of these proceedings in the states of Maryland and Ohio, see Young, American Statesman, 305-8.

The Financial Crisis of 1819. — The various causes detailed above: the reduction of the war duties; the sudden importation

of great quantities of foreign goods; the inflation of the irredeemable paper currency, and the great extension of bank credits; the consequent speculation and over trading; lastly, the violent contraction of the currency, and the consequent rapid decline in the prices of commodities (in breadstuffs and cotton as much as 50 per cent); brought on the severe financial crisis of 1819, which affected all branches of industry. New England felt the shock less perhaps than other parts of the Union, because she had kept a sound currency throughout, and her industries were more varied, and established on a sounder basis. (Hildreth, VI. 681, 2; Bishop, II. 248-51; Benton, Thirty Years' View, I. 5.)

The manufacturers ascribed their distress to the want of adequate protection to home industry against the "cheap production, fraudulent invoices, long credit and unlimited sales at auction, whereby the country had been deluged with foreign merchandise, to the ruin alike of the farmer, the importer, and the manufacturer." (Bishop, II. 257.)

The farmers, too, began to look to a home market for their produce.

Conventions of manufacturers were held, and petitions sent to Congress praying for the abolition of credits on impost duties, and an increase of the duties.

A bill for the increase in the duties passed the House April 28, 1820, by a vote of 90 to 69, but it was lost in the Senate, 22 to 21.

Mr. Clay came out strongly in favor of the bill. (Works, V. 461; Benton, Deb., 601-51; Hildreth, VI. 698, 9; Bishop, II. 257, 8.)

Internal Improvements. — The question of internal improvements, which had fallen in the general wreck of Jefferson's policy, took a new start after the war. The want of ways of communication and facilities of transportation had been acutely felt during the war. In his eighth annual message, Mr. Madison had advised an amendment of the Constitution, if necessary, in order to give Congress the power "to effectuate a comprehensive system of roads and canals such as will have the effect of drawing more closely together every part of our country by promoting intercourse and improvements." (Stat. Man., I. 335.)

Mr. Calhoun, in furtherance of the liberal policy advocated by the new generation of Democrats, reported a bill, December 23, 1816, appropriating to internal improvements the bonus and the

dividends received from the United States Bank, and the following February he advocated the measure in a strong speech. (Benton, Deb., V. 704.) He held that roads and canals were expedient and necessary for the transportation of troops, etc., in time of war. They would effect the unity of all sections, he thought. "Let us then bind the republic together by a perfect system of roads and canals." (Ibid. 707.) For this he believed the powers of Congress to be ample. The Constitution should be construed *with plain good sense.* Congress could construct roads and canals as a means for the general welfare. In like manner had the purchase of Louisiana and the construction of the Cumberland Road been justified.[1] (Von Holst, Life of Calhoun, 36-7.)

Timothy Pickering, objecting to Calhoun's view, said (Benton, Deb., V. 708): "If Congress had the power to make roads and canals, it must necessarily be an implied power, and under the express power 'to regulate commerce with foreign nations and among the several states, and with the Indian tribes.'" Other speakers held that the construction by the General Government of roads through the states would necessitate the control of such roads by the General Government, and hence would infringe upon the rights of the states. Clay, who closed the debate in the House, became later the champion of internal improvements. He favored the bill in an able speech. (Ibid. 709; Clay's Works, V. 356.)

The bill passed the House by 86 to 84, March 3, 1817; also the Senate. But it was vetoed by President Madison on the ground that it demanded of Congress the exercise of unconstitutional powers. (Benton, V. 721.) Still, believing the policy to be expedient, he advised an amendment to the Constitution.

May 4, 1822, Monroe vetoed a bill for the extension and repair of the Cumberland Road. (Stat. Man. II. 558; Young, 311-12.) His reasons were substantially the same as those of Madison. The power to establish and operate roads, he said, "is a *complete right of jurisdiction and sovereignty* for all the purposes of internal improvement, and not merely the right of applying money, under the power vested in Congress to make appropria-

1 In 1828-33, however, he was a strict constructionist; and in 1838 he declared that one of the most essential steps to be taken was to restore our Government to its original purity, and that the great and sole object of his life was to put a stop to internal improvements by Congress.

tions, under which power, *with the consent of the states*, through which this road passes, the work was originally commenced, and has been so far executed." (Stat. Man., I. 491.) The completion of the Erie Canal in New York ("Clinton's Ditch," as it was called by its opponents) in 1825, mainly through the exertions of Governor De Witt Clinton, increased the general desire for such improvements. Still no amendment to the Constitution was brought forward.

After the era of good feeling, the question of internal improvements, like that of the tariff, became a party question — at first favored and finally opposed by the South.

The Clay-Adams party in 1824-8, later the Whig party, and the Republican party, in turn, have favored internal improvements by the General Government; but the Jackson-Crawford combination in 1824-8, and the later Democratic party, have generally opposed that policy. (Hildreth, VI. 616, 17; Young, Am. Stat., 309-12; Benton, View, I. 21-7; Von Holst, I. 388-96; Tucker, III. 201-10.)

The Seminole War. — By the 9th article of the treaty of Ghent, the United States stipulated to restore to the Indian tribes all the possessions which had belonged to them prior to the year 1811. This stipulation was considered not to apply to the Creeks who had ceded their lands by the treaty of Fort Jackson in 1814. (*Supra*, p. 107.) Many members of this tribe, dissatisfied with the treaty of Fort Jackson, had withdrawn to Florida and joined the Seminoles, and after the peace claimed their ceded lands under the 9th article of the treaty of Ghent. Two British subjects, Arbuthnot and Ambrister, were supposed to have incited the Indians to make the claim. Moreover a fort had been built on the Appalachicola River in Florida which after the close of the war became a refuge for runaway slaves from the state of Georgia. Hostilities having broken out in 1817 on the Florida frontier, General Jackson was ordered to take command in Georgia. Without waiting for instructions, Jackson ventured on his own authority to do two very grave acts, namely, the invasion of Florida — a foreign state, and secondly, the summary execution of two citizens of another state, Great Britain, either of which might involve the country in war. Jackson took possession of the two Spanish forts, St. Marks and Pensacola, April and May, 1818, which, however, he restored to the Spanish authorities on the urgent request of the Government.

In the mean time, Arbuthnot and Ambrister, having been taken prisoners, were tried by a court martial, on the charges of inciting the Indians to war and giving them aid, and were found guilty. But the case of Ambrister was reconsidered and his sentence changed to fifty stripes and confinement for twelve months. Jackson disapproved of this reconsideration and ordered the execution of both men. The evidence against them was not only slight, but wholly failed to prove the charges.

The questions involved in these proceedings of Jackson were more serious than that of the original Indian war. The governments of Spain and Great Britain immediately demanded explanations.

In a cabinet council Calhoun proposed to bring Jackson to trial; but Adams justified Jackson's conduct in full. The decision of the cabinet was a compromise: (1) General Jackson should be justified and applauded; (2) His taking of the Spanish posts should be declared *his* act — just and necessary, but unauthorized by the Government; (3) Pensacola should be restored unconditionally; (4) St. Mark's should be restored to a Spanish force competent to hold it and to protect the frontiers.

Adams' state paper endeavoring to justify Jackson's conduct is called by Parton (Life of Jackson, II. 513) "the most flagrant piece of special pleading to be found in the diplomatic records of the United States. Some essential facts of the case it omits; others it misstates; others it perverts." Adams believed with Jackson that those acts were necessary in order to terminate the Indian war; "that an imaginary air-line of the 31° of latitude could not afford protection to our frontier while the Indians had a safe refuge in Florida; but he owned to the cabinet that, to come to this conclusion, the reasoning on his principles must be carried to the utmost extent. (Ibid. 511.)

The execution of Ambrister and Arbuthnot caused great excitement in England, and but for the firmness of the ministry war might have ensued. Lord Castlereagh, the English minister, and the Spanish court, however, seemed satisfied with Adams' explanation.

In the House, the debate on the conduct of Jackson in the Seminole war exclusively engaged the attention of that body for 27 days (January 12 to February 8, 1819). The Committee on Military Affairs, to whom the matter had been referred, recom-

mended that the House disapprove the proceedings in the case of Arbuthnot and Ambrister. As these men were neither outlaws nor pirates in relation to the United States, but were British subjects, they were not within the jurisdiction of a military court of the United States. Moreover their execution was unnecessary, as the war was already over; and the revision of the sentence once given was contrary to army usages. Henry Clay and W. H. Harrison spoke in favor of the report, and Richard M. Johnson against it. The committee of the whole, however, sustained the action of Jackson upon every point. (Benton, Deb., VI. 225-333; Parton, II. 506-34.) With the masses these events served only to increase the favor in which Jackson had been held since his victory at New Orleans. On the other hand, Jackson was led to look to the people for support. To those statesmen who had opposed him in any way he was ever after the bitter enemy. (Hildreth, VI. 641-6, 655-8; Young, Am. Stat., 289-99; Sumner, Life of Jackson, 48-67; Von Holst, I. 337-9.)

The Spanish Treaty of 1819.—As we have seen (*supra*, p. 88), diplomatic relations with Spain were broken off in 1808, and in 1810 the United States took forcible possession of West Florida (except Mobile). (Hildreth, VI. 224-6.) By the act of April 14, 1812 (Stat. at L., II. 708), the part of West Florida west of the Pearl River was annexed to the Territory of Orleans. The remaining part, as far as the Perdido (except Mobile), was annexed, May 14, to the Mississippi Territory. Mobile fell into the hands of General Wilkinson April 15, 1813. East Florida, which had been invaded by United States troops under Jackson in 1814, was at length evacuated by them. (Hildreth, VI. 539; Sumner, Life of Jackson, 36-8.)

In 1815 diplomatic relations with Spain were resumed. Meanwhile other events had complicated our differences with that country. From 1810 on, the Spanish-American colonies had been in revolt. "The undoubted sympathy with this movement in different parts of the United States, and the aid which was surreptitiously afforded from some places in violation of law, and in spite of the vigilance of the Government, induced reclamations on the part of Spain in 1815 when diplomatic relations were resumed." (U. S. Treaties, 1075.) These lawless proceedings of American citizens led to the Act of Congress of 1818 amending and making more strict the Neutrality Act of 1794. (Stat. at

L., III. 447; Hildreth, VI. 610-11.) Moreover, Jackson's unauthorized seizure of Pensacola and St. Mark's in 1818, in order to bring to a close the Seminole War, still further complicated the relations between the United States and Spain. After a long correspondence between J. Q. Adams and the Spanish minister at Washington, the treaty of 1819, settling all disputes between the two countries, was concluded in that city. (Treaties, 785.) At first the King of Spain refused to ratify the treaty unless the United States would agree not to recognize the independence of the Spanish-American colonies. To this the United States would not agree. Finally, Oct. 24, 1820, the treaty was ratified by Spain. (Hildreth, VI. 633-4, 646-7, 686, 712, 13.)

By Art. II., Spain ceded to the United States "all the territories . . . . situated to the eastward of the Mississippi, known by the name of East and West Florida," the adjacent islands, and all the public property in the said provinces.

By Art. III., the boundary line between the two countries west of the Mississippi ran from the mouth of the Sabine north on the western bank to the 32° north latitude; thence due north to the Red River; west along this river to the 100° west longitude, thence, crossing the Red River, north to the Arkansas; thence along the southern bank of the Arkansas to its source in the 42° north latitude; and thence along this parallel to the South Sea (Pacific). The islands in the Sabine, the Red, and the Arkansas rivers should belong to the United States; but the navigation of these rivers should be open to both nations. The United States had claimed the territory to the Rio Grande; Spain, to a point near the Mississippi. The compromise, it seems, was upon the Sabine.

Art. V. provided that "the inhabitants of the ceded territories shall be secured in the free exercise of their religion," and for the free exportation of the effects of those desiring to remove to the Spanish dominions.

By Art. VI., the inhabitants of the ceded territories "shall be incorporated into the Union . . . . as soon as may be consistent with the principles of the Federal Constitution."

By Art. IX., the two countries reciprocally renounced their claims upon each other for damages.

By Art. XI., the United States, in consideration of the cession of Florida, engaged to satisfy the claims of their citizens against Spain, to an amount not exceeding $5,000,000. To ascertain the

extent and validity of these claims a commission of three citizens of the United States was to be appointed by the President to sit at Washington.

By Art. XII., the treaty of limits and navigation of 1795 was confirmed so far as not modified by this treaty.

There was some opposition to this treaty in the United States. It was said that the claim to Texas had been abandoned unnecessarily, and even without warrant of law; since territory could be *alienated* only by act of Congress. Hence arose afterwards the fiction of the re-annexation of Texas. (Hildreth, VI. 686, 7, Benton, Deb., VI. 574-97; Colton, Life of Clay, I. 237-9; Benton, View, I. 14-18.) But the treaty was ratified and became the act of the country and the law of the land, Clay's resolution not passing the House.

See also on this treaty: Morse, Life of J. Q. Adams, 109-28; Young, Am. Stat., 299-304.

Slavery and the Missouri Compromise.—In the case of *Somerset*, 1772, Lord Chief Justice Mansfield decided that slavery could not legally exist in England. And for the same reason slavery should have been illegal in all English colonies in which the common law prevailed. (Goodell, Slavery and Anti-Slavery, 47-52; Von Holst, I. 277.) In fact the Superior Court of Massachusetts had taken the same stand two years previously to the decision of Lord Mansfield, and substantially upon the same grounds as those upon which that decision was based. (James *vs.* Lechmere; Goodell, 112, note.)

Notwithstanding this decision slaves continued to be held in Massachusetts; and it was subsequently held by the courts that slavery was abolished in that state by the bill of rights in the constitution of 1780, "all men are born free and equal." (Goodell, III.)

In the New Hampshire constitution, adopted in 1783, a declaration similar to that in the Massachusetts constitution was said likewise to have abolished slavery in that state. In Rhode Island the Assembly enacted that after March, 1784, all blacks born in that state should be free. In Connecticut a law providing for the gradual abolition of slavery was passed in 1814. Vermont expressly prohibited slavery in her bill of rights. In 1799 New York passed an act for the gradual abolition of slavery; and in 1817 another act declared that all slaves in New York should be

free in 1827, and on the 4th of July, 1827, the act took effect, ten thousand slaves being set free. New Jersey enacted in 1820 that all slaves born after 1805 should be free at the age of 25. Still, in 1846 it appeared necessary to pass a law ostensibly abolishing slaves. Pennsylvania in 1780 passed an act for the gradual emancipation of slaves. (Goodell, 112-17.)

The census of 1790 shows that slavery still prevailed even in states where it had been previously prohibited, Massachusetts excepted.

North.		South.	
New Hampshire	158	Delaware	8,887
Vermont	17	Maryland	103,036
Rhode Island	952	Virginia	293,427
Connecticut	2,759	North Carolina	100,572
Massachusetts	None	South Carolina	107,094
New York	21,324	Georgia	129,264
New Jersey	11,423	Kentucky	11,830
Pennsylvania	3,737	Tennessee	3,417
Total	40,370	Total,	657,527

(Greeley, I. 33-7.)

Even in 1840, of the so-called non-slaveholding states, only Massachusetts, Maine, Vermont, and Michigan had no slaves; and in that class of states 1129 slaves were then held. But the number of slaves in the South had increased from 657,527 in 1790 to 2,486,626 in 1840.

This division of the country on the basis of slavery was largely due to the difference of climate and of agricultural products. At first these influences were not appreciated. Jefferson and many other Southern leaders, both before and at the adoption of the Constitution, desired the gradual abolition of slavery; they thought, if the slave trade was abolished, slavery would die out of itself, hence they did not realize the importance of recognizing slavery in the Constitution. But even had they realized this, it was a question of slavery or no Union, since South Carolina and Georgia refused to enter the Union on any other conditions.

Congress prohibited the importation of slaves into any state contrary to the laws of such state, and this too on the remonstrance of South Carolina. And on March 2, 1807, the general prohibition of the slave trade was passed, to take effect January 1, 1808. (Stat. at L., II. 426; Von Holst, I. 317.)

There were early signs of differences between the North and South, as appeared in the debates of Congress; and although the subject of slavery was for the most part kept out of the discussions, yet there was a constant rivalry between the two sections for power in the General Government.

After the invention of the cotton-gin, slavery may be said to have been fixed upon the South. Then by the acquisition of Louisiana there was opened to this slaveholding interest the opportunity of almost unlimited expansion. For this very reason the North opposed the Louisiana purchase.

But the North had also its opportunity to expand toward the west, and the result shows that the South was outstripped in the race. The system of slave labor could not hold its own, on equal terms, with the system of free labor. The increase of population was much more rapid in the non-slaveholding states than in the slaveholding states. The population of the two sections according to the first four censuses was as follows:

	1790.	1800.	1810.	1820.
North . . .	1,968.455	2,684,625	3,758,820	5,132,372
South . .	1,961,327	2,621,300	3,480,994	4,522,224

The representation of the two sections in the House varied proportionately, and is shown as follows:

	Before 1st Census.	1790.	1800.	1810.	1820.
North . .	35	57	77	104	133
South . . .	30	53	65	79	90

(Von Holst, I. 354-5.)

The South was therefore obliged, if it would secure its supremacy, by the admission of a sufficient number of new and slave states, to keep control of the Senate. For in this body representation was independent of population. This struggle for the balance of power is seen from the adoption of the Constitution. Then the North comprised seven states, and the South six. To the North Vermont was added in 1791; to the South Kentucky in 1792 and Tennessee in 1796, thus giving eight states to each section. The North secured Ohio in 1802, but the South Louisiana in 1812. To the North was added Indiana in 1816 and Illinois in 1818, but to the South Mississippi in 1817 and Alabama in 1819; each section at that time, therefore, comprised eleven states. (Appendix, p. 35; Von Holst, I. 356.)

The desire to maintain the balance of power or to incline it in its own favor explains "the stubborn tenacity and passionate energy with which the South for three years fought out the Missouri struggle and all the later contests in behalf of the extension of slave territory. (Von Holst, I. 356.)

In February, 1819, during the discussion of a bill in the House of Representatives for the admission of Missouri into the Union as a state, Mr. Talmage of New York moved an amendment, that the admission should be made dependent upon two conditions: prohibition of the further introduction of slaves into Missouri, and the emancipation of all slave children born after the admission as soon as they reached the age of 25. The House adopted the amendment, 87 to 76, but the Senate rejected it. At the next session Maine having applied for admissiou, the Senate coupled the two territories together in one bill, February 16, 1820, with an amendment, proposed by Thomas of Illinois, to prohibit slavery in the territory of the Louisiana Purchase north of 36° 30′ north latitude, except in Missouri. The House rejected the Senate amendments, and sent up to the Senate a new Missouri bill, February 29, 1820, containing the clause restricting slavery. The Senate again struck out the restrictive clause and inserted Thomas' Territorial provision, as above, March 2.

The House at first refused to recede from its stand. The question was referred to a committee of conference, who reported in favor of striking out the clause of the bill restricting slavery in Missouri, and of substituting the Senate amendment. (The Thomas Compromise.)

With the compromise in view the House then voted, 90 to 87, to strike out the restrictive clause. This was the test vote. Of the votes in favor of striking out, 76 were from slave states and 14 from free states; of those opposed, all were from free states.

The vote on the compromise (to prohibit slavery iu the Louisiana Purchase north of 36° 30′, except in Missouri) the vote stood 134 to 42. Five northern and 35 southern members voted in the negative; about 41 southern and 95 or 96 northern members in the affirmative. (Hildreth, VI. 690, 91; Von Holst, I. 374.)

"Randolph, the leader of the ultra-southern party, indignantly denounced this compromise as a 'dirty bargain,' and the northern men, by whose co-operation it had been carried, as 'dough-faces.'" (Hildreth, VI. 691.)

Yet the compromise was a southern measure, as is shown by the action of the Senate and by the fact that the President and Cabinet favored it. (Benton, View, I. 8-10.) But it would appear that Monroe, and all the members of the Cabinet except John Quincy Adams, understood the word "forever" (in the clause declaring that slavery should be forever prohibited, etc.) to apply only to the territory, and not to the state after admission. An interpretation evidently not intended by those who had favored the restriction of slavery in Missouri. (Hildreth, VI. 692, 3.)

Slavery gained the immediate victory in this first great struggle between the North and the South. But if this had been the final settlement of the slavery question as between the two sections, the North would have had the advantage in the struggle for the balance of power. The larger part of the Louisiana cession would have been secured to free labor (see map). The South soon recognized this fact, and made new attempts to extend her territory. She finally got Texas and a large part of Mexico, and then repealed the Missouri Compromise.

The first proposal to fix a dividing line between freedom and slavery came from John W. Taylor of New York, as an amendment to a bill to organize Arkansas as a territory, February 18, 1819. (Hildreth, VI. 662.)

Missouri, having adopted a Constitution, after some new opposition in Congress, finally became a state August 19, 1821; Maine on March 15, 1820.

During the debates on the Missouri bill, the excitement was great throughout the country, north and south. The whole question of slavery, in all its bearings, moral and legal, was hotly discussed. The North pretty generally condemned slavery as a great evil, but no one as yet maintained that it was illegal in the original states or that it should be abolished there; the North demanded only its exclusion from the new territory. Abolitionism was of later origin.

On the other hand the South began to maintain that slavery was an unmixed good, sanctioned by morality and religion.

For the present both parties accepted the compromise as a settlement of the dispute, and resisted all further agitation of the subject of slavery. Authorities on this subject: Hildreth, VI. 661-76, 682-98, 703, 706-12; Greeley, American Conflict, I. 74-80; Von Holst, I. 356-81; Benton, View, I. 8; Wilson, I. 135-52;

Tucker, III. 263-86, 298-306; Young, Stat. Man., 313-19; Benton, Deb. VI.

Miscellaneous Legislation and Events.—1. Colonization Society. — The initial organization of the American Colonization Society took place at Princeton, N. J., in the autumn of 1816, the final organization at Washington January 1, 1817. Its first President was Bushrod Washington; subsequently this office was held by Charles Carroll, James Madison, and Henry Clay. The primary object of the society seems to have been to get rid of the class of free negroes, and it was hoped by many philanthropic persons that this would lead to the gradual emancipation of the slaves. But the Abolitionists became suspicious of the movement, and its success was never great. Actual colonization began in 1820 on Sherbro Island, afterwards (Dec. 15, 1821) transferred to the main land of the African coast, at Cape Mesurado. About eight thousand colored people emigrated to that country. They founded the city of Monrovia, and in 1847 the colony declared its independence under the name of Liberia. (Greeley, I. 71-4; Hildreth, VI. 614-16; Wilson, 208-22; Von Holst, I. 329-33; Goodell, 341-52.)

2. *Navigation Act*, March 1, 1817 (Stat. at L., III. 351) copied from the English navigation act, limited importation in foreign ships to the produce of their respective countries, but only to apply to countries having similar regulations. Moreover the coasting trade was restricted to American vessels. An act of May 15, 1820, closed the ports of the United States against British vessels coming from certain British colonial ports in America. (Stat. at L. III. 602.) This led to the opening of the West India ports to American vessels. (Hildreth, VI. 611.)

3. *The Navy.* — The navy had acquitted itself so well in the War of 1812, that on the return of peace it was generally agreed to not only retain the present force but to gradually augment it. By the Act of April 25, 1816, $1,000,000 were to be annually appropriated for eight years. There were to be built 9 ships carrying 74 guns each, and 12, of 44 guns each. (Stat. at L., III. 321; Benton, Deb., V. 645, 6, and note; Schouler, II. 454.)

4. *The Army* was reduced to a peace establishment of 10,000 men. (Schouler, II. 454; Hildreth, VI. 571.)

5. *Reduction of Expenses.* — The financial crisis of 1819 had so reduced the revenue that a curtailment of the expenses of the Government became necessary. This was loudly called for by the anti-tariff party. In March, 1821, the annual appropriation for

the increase of the navy was reduced to half a million; the army was cut down to 6000 men, (Stat. at L., III. 615); a large reduction was made in the appropriations for fortifications; and the list of Revolutionary pensioners was cut down about one-half. Pensions were restricted to those who appeared to be absolutely indigent. (Stat. at L., III. 569; Hildreth, VI. 700, 705; Benton, View, I. 11.)

Notwithstanding this retrenchment it was found necessary to authorize a loan of $5,000,000 to meet the obligations of the Government. (Hildreth, VI. 704, 5.)

6. *Public Lands.* — By the early laws regulating the sale of public lands (*Supra*, p. 84), the purchaser was allowed a credit for a year on half the purchase money. During the period of inflated currency and the extension of credits, 1816-19, speculation in public lands went on to an enormous extent. The debt to the Government on this account had accumulated to about $23,000,000, for which the purchasers had "obtained repeated extensions." To stop this evil the system of credit sales was abolished, the price of land reduced from $2.00 to $1.25 per acre, lands to be purchasable in half-quarter sections (80 acres), and the debtors were allowed to consolidate their payments, made on different tracts, on any particular one, relinquishing the rest. "A debt of $23,000,000 was quietly got rid of" and purchasers were enabled to "save their homes and fields." (Benton, View, I. 11-12; Hildreth, VI. 700; Stat. at L., III. 555, 566, 612.)

7. *Act limiting the Term of certain Civil Officers.*—"By way of check upon the inferior executive officers," says Mr. Hildreth (VI. 700), "among whom many defalcations had recently occurred, their term of service was limited to four years, at the end of which a re-appointment became necessary, the President, of course, retaining his right of discretionary removal."

The date of this act is May 15, 1820, and the officers to whom it applied were the following: district attorneys, collectors of customs, naval officers and surveyors of the customs, navy agents, receivers of public moneys for lands, registers of the land offices, paymasters in the army, the apothecary-general, and the commissary-general of purchases.

Commissions of the above named officers dated prior to October 1, 1814, were to expire on the day and month of their dates next ensuing after the 30th day of September, 1820; those dated between October 1, 1814, and October 1, 1816, to cease, as above

described, on the date next ensuing after the 30th day of September, 1821; "and all other such commissions shall cease and expire at the expiration of the term of four years from their respective dates." (Stat. at L., III. 582.)

8. *The Previous Question.*—The previous question, as adopted and hitherto in use in the House of Commons, was for the purpose of postponing the consideration of a question; and members resorting to it, that is moving the previous question, voted in the negative. But before it was put from the chair the debate on the main question went on as long as any member wished to speak. If the previous question was then passed in the negative, the main question was postponed, if in the affirmative, then the main question was to be put without further debate.

According to the practice of the House of Representatives, by rules adopted at the first session of Congress, 1789, if the previous question passed in the affirmative, the debate on the main question was still in order. Decisions by the speaker to the contrary were twice overruled by the House (Dec. 15, 1807, and Dec. 1, 1808). (Benton, Deb. V. 557.) But on the 27th of February, 1811, the House ruled the other way, contrary to its own practice, so that if the previous question passed in the affirmative, the main question was to be immediately voted on without debate. (*Supra*, p. 99.) Since that time the previous question has been resorted to in the House as a means of stopping debate, and the mover, contrary to the English practice, votes in the affirmative.

In January, 1816, a determined effort was made in the House to rid the previous question of this new feature. (Benton, Deb., V. 549.). Mr. Randolph made a powerful speech against the use made of the previous question. A better name, he said, would be the *gag law*. Mr. Clay endeavored to justify the previous question. He said it was not resorted to until the abuse of debate rendered it expedient.[1] (Ibid. 549-51.) Mr. Gaston gave a full history of the previous question both in the House of Commons and in the House of Representatives. (Ibid. 551-9.) Mr. Tucker of Virginia believed the rule an essential one, "however cautious the House should be in the exercise of it."

When the question came to a vote, there appeared not to be a

1 In 1841 Mr. Clay attempted to introduce the use of the previous question into the Senate. In 1789 the Senate adopted the previous question as used in the House of Commons, but discarded it in 1806.

quorum in the House, and the subject was allowed to drop. (Benton, Deb., V. 633, 4; Cushing, Law and Practice of Legislative Assemblies, pp. 549-61; Barclay, Manual, p. 193.)

Election of 1820. — There was a general acquiescence in the re-election of Mr. Monroe and Mr. Tompkins. Candidates were not presented by the Federalists; they could hardly be said to exist as a party. Many of the New England Federalists expressed themselves satisfied with what they termed the Washington-Monroe policy; while some of the old school Democrats complained that the administration had become thoroughly Federal. "While old party distinctions had thus disappeared, no new ones, as yet, had been definitely formed." (Hildreth, VI. 701, 2.)

"With the re-annexation of Florida to the Anglo-American dominion, the recognized extension of that dominion to the shores of the Pacific, and the partition of these new acquisitions between slavery and freedom, closed Monroe's first term of office; and with it a marked historical era. All the old landmarks of party, uprooted as they had been, first by the embargo and the war with England, and then by peace in Europe, had since, by the bank question, the internal improvement question, and the tariff question, been completely superseded and almost wholly swept away. At the Ithureal touch of the Missouri discussion, the slave interest, hitherto hardly recognized as a distinct element in the American social system, had started up portentous and dilated." It is from this point that later American politics take their departure. (Hildreth, VI. 713.)

II. Monroe's Administration — Second Term, 1821-5.

Although Mr. Monroe's administration has been called "the era of good feeling" so far as party disputes were concerned, yet the personal rivalry among the leaders within the Democratic party at this time laid the foundation of new party divisions. During the period from 1811-20 many able young men had come forward to contest the leadership of the party, each with his local or personal following, and each aspiring to the Presidency. These were the second generation of American statesmen, superseding the statesmen of the Revolution and the formative period of the Government in the control of the state. They continued for about forty years, as leaders of the various parties, to guide the affairs of state, till

they in turn were left behind in the march of ideas, and gave place to the Sumners, the Sewards, the Chases, the Davises.

JOHN QUINCY ADAMS:

1767 . . . Born in Boston, Mass.
1787 . . . Was graduated at Harvard College.
1794–1801 . Minister of the United States in turn to Holland, England, Sweden, and Prussia.
1803–8 . . . Senator from Mass.
1808 . . . Resigned his seat in the Senate.
1809 . . . Minister to Russia, and later, one of the commissioners who negotiated the Treaty of Ghent.
1817 . . . . Secretary of State.
1825 . . Elected President by the House of Representatives.
1831–48 . Member of Congress from Mass.
1848 . . . Died.

Up to the time Mr. Adams became Secretary of State in 1817, the greater part of his life had been spent in the diplomatic service. As a member of Congress, he was one of the first to advocate the anti-slavery cause in that body.

(W. H. Seward, Life of J. Q. Adams; John T. Morse, Life of J. Q. Adams.)

HENRY CLAY:

1777 . . . . Born in Virginia.
Admitted to the bar of Kentucky, to which state he had moved. He had merely a common school education.
1803 . In the State legislature.
1806 . . Appointed to the United States Senate to fill a vacancy.
1807 . . Re-elected to the state assembly and chosen speaker.
1809 . . . Appointed a second time to a vacancy in the United States Senate.
1811–25 . . Member of Congress, and with two or three short intervals speaker of the House during that time.
1825 . . . . Secretary of State under J. Q. Adams.
1831–42 . . United States Senator.
1842 . Resigned his seat in the Senate.
1849 . . . . Again elected Senator.
1852 . . . Died.

Clay first came prominently forward as the advocate of the war of 1812. Later he supported the United States Bank, Internal Improvements, and especially the Protective Tariff, in connection with which he is called the founder of the American system. He was the author or promoter of the three great compromises between

the North and the South — the Missouri Compromise of 1820, the Tariff Compromise of 1833, and the Compromise of 1850. He was a candidate for the Presidency in 1824 as a Democrat, and in 1832 and 1844 as a Whig, of which party he was the leader till his death. (Calvin Colton, Complete Works of Henry Clay; Brief Life by Horace Greeley; also Life by Carl Schurz, in preparation.)

JOHN C. CALHOUN:

1782 . .	Born in South Carolina of Irish parents.
1804 . . .	Was graduated at Yale College.
1804–7	Studied Law.
1811–17	Member of Congress.
1817–25 . .	Secretary of War.
1825–31	Vice-President.
1831 . .	Resigned in order to enter the United States Senate.
1843	Secretary of State under Tyler.
1845 . .	Again United States Senator.
1850	Died.

From the time he entered Congress till the tariff controversy of 1828-33, Calhoun's principles were those of the old Federalist school, liberal construction of the Constitution. He favored internal improvements, a national bank, a protective tariff, and an increase of the navy. He afterwards turned his back upon these principles, and became the leader of the states rights party and the champion of slavery, and the author of nullification in 1830-3. (R. K. Creele, Works of Calhoun; Von Holst, Life of Calhoun.)

WILLIAM LOWNDES, of South Carolina:

Mr. Lowndes was said to be "one of the wisest, most prudent, and judicious legislators who had occupied a seat in Congress." "He was the moderator as well as the leader of the House." He was the leading advocate of the Tariff bill of 1816; and on all questions his influence was felt. Had he lived it is probable that Calhoun's career would have been a very different one, but he died in 1822. (Sargent, Public Men and Events, I. 31; Benton, View, I. 18.)

WILLIAM PINCKNEY, of Maryland, was another of the leading statesmen who died in the same year with Mr. Lowndes (1822). He had held many important diplomatic positions, was ranked first at the bar of the Supreme Court, and was considered the first of American orators. He was a member of the United States Senate at the time of his death. (Life of William Pinckney by Henry Wheaton; Benton, View, I. 19; Sargent, I. 33.)

William H. Crawford, of Georgia, was born in 1772. He entered the United States Senate in 1807, and became, says Mr. Sargent, "the political Mentor of that galaxy of young men who then appeared in Congress and soon became eminent as statesmen and orators." In 1811 he was the chief supporter of the Bank bill. He was minister to France in 1813, and Secretary of the Treasury, 1817-25. In 1816 he was the rival of Monroe for the nomination as presidential candidate, and in 1824 he was one of the four candidates. (Sketch of his life in National Portrait Gallery; and Memoir in Bench and Bar of Georgia; Sargent, I. 82.)

Andrew Jackson:

1767 . .	Born in North Carolina.
1781	Joined the Continental Army.
1790 .	Appointed United States District Attorney by Washington, having been admitted to the bar.
1796 . .	Member of Congress.
1797-8 . . .	United States Senator.
1798-1804 .	Judge of the Supreme Court of Tenn.
1804-14	Major-General of militia.
1814 . .	Appointed to the same rank in the regular army.
1823 . . .	Elected to the United States Senate.
1824 . . .	The people's candidate for the Presidency.
1829-36 . .	President of the United States.
1845 . . .	Died.

Jackson came first prominently into notice at New Orleans, whither he was ordered in 1814, after the treaty of Fort Jackson (*Supra*, p. 107) was concluded, to repel an anticipated British attack. He found the city in confusion and unprepared; and, the legislature refusing to declare martial law, Jackson did so on his own responsibility. Suspecting that the legislature would capitulate in order to save the city, he stationed a guard at their doors and thus broke up their session; and he ordered the registration of all the male inhabitants. Even after news of the signing of the treaty was unofficially announced, martial law was kept up; and a member of the legislature, who complained of this through a newspaper, was put in jail and ordered to be tried for his life. Moreover Judge Hall, of the United States District Court, having granted the prisoner a writ of *habeas corpus*, was himself arrested and sent out of the city, as was also the District Attorney who endeavored to secure a similar writ for Judge Hall. Finally, upon

receiving official information of peace, Jackson withdrew martial law. Thereupon he was summoned before Hall for contempt of court, a writ of attachment was issued against him, and he was fined $1000, which he immediately paid. In 1843 Congress refunded the amount of the fine with the interest thereon.

Art. I., § 9, cl. 2, of the Constitution provides that the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. The suspension of the writ is a power of the legislature (either state or national), and the President can not exercise it except as authorized by law. The suspension does not legalize acts done while it continues.

It would seem that the emergency justified Jackson in declaring martial law in the city of New Orleans, which was within the limits of his army, but that he erred in continuing that law in force after he knew that peace had been declared.

Jackson was a great favorite with the masses. His energetic acts in emergencies, though sometimes harsh and arbitrary, were in strong contrast with the inactivity and inefficiency of other generals of his time. He assumed to be a law unto himself, independent of the Legislature or Judiciary; responsible to the people only. His administration of the Government on this principle formed a dangerous precedent, (Parton, Life of Jackson; Sargent, I. 35; Sumner, Life of Jackson.)

DANIEL WEBSTER:

1782	Born in New Hampshire.
1801 . . .	Was graduated at Dartmouth College.
1805 . . .	Admitted to the Bar.
1812-16	Member of Congress from New Hampshire, making his first speech, June 10, 1813, on the Berlin and Milan decrees.
1816-22	Practised Law in Boston.
1822-8 . .	Member of Congress from the Boston district.
1828-40 . .	United States Senator.
1841-3 . . .	Secretary of State under Harrison and later under Tyler.
1845-50 .	United States Senator.
1850	Secretary of State under Fillmore.
1852	Died.

Mr. Webster was the chief supporter of John Quincy Adams' administration; and afterwards as one of the Whig leaders, was the champion of the North against Southern aggression, and the

most eminent supporter of the Whig doctrines. (Life by George Tichnor Curtis; In preparation, Life by Henry Cabot Lodge.)

MARTIN VAN BUREN:

1782 . . Born in New York.
1808-20 . . In various state offices — a member of the "Albany Regency."
1821-9 . . . United States Senator.
1829 . . . . Governor of New York, but resigned to become Secretary of State under Jackson.
1833-7 . . Vice-President.
1837-41 . . President.
1848 . . . Free Soil candidate for the Presidency.
1862 . . . Died.

(Life, by William McKenzie.)

THOMAS H. BENTON was born in 1782 in North Carolina. He removed to Missouri, which state he represented in the Senate of the United States from 1820 to 1851. He was the main supporter of Jackson's and Van Buren's administrations.

In the election of 1824 there were four candidates for the Presidency, all of the Democratic party and each with a strong personal following.

Of the whole number of electoral votes — 261, Jackson received 99, Adams 84, Crawford 41, and Clay 37; and as 131 were necessary for a choice the election was thrown into the House. Though Jackson had received a plurality of the popular and electoral vote, as the voting in the House was by states the influence of Clay secured the election of Adams. There was great public indignation at this result, and the representatives who voted for Adams almost invariably lost their seats at the next election. (Benton, View, I. 47; Von Holst, II. 1-10.)

The election of 1824 closed the era of good feeling, though party divisions were not strongly drawn until 1829. In the administration of Adams the elements of opposition were developed, mainly by the efforts of Mr. Calhoun and his friends, and Mr. Randolph and Colonel Benton. Others who joined this combination were, Hayne, McDuffie, and Hamilton of South Carolina, Forsyth and Berrien of Georgia, Livingston of Louisiana, R. M. Johnson of Kentucky, King of Alabama, Van Buren and Cambreling of New York, Buchanan and Ingham of Pennsylvania, Woodbury and Hill of New Hampshire, and others, including all those who had supported General Jackson at the preceding election. (Sargent, I. 106.)

In 1824 the congressional caucus for the purpose of nominating the presidential candidate was resorted to for the last time. The first regular Republican caucus of the members of Congress was held in 1804; this custom was followed until 1820, when there was no opposition to Mr. Monroe. In 1824 Mr. Crawford was the caucus nominee, but the system had become so odious that this fact damaged his prospects. (Holmes, Parties and their Principles, pp. 64, 67, 80, 107-10; Young, Am. Stat., 341-3; Niles' Register, XXV. 224, 258.)

The Monroe Doctrine. — The neutral policy of the United States in 1793-4 was rather one of necessity than of choice. The nation began its existence with an "entangling alliance" — the treaty of 1778 with France — from the effects of which it was not wholly free till 1815. (*Supra*, pp. 41 *et seq.*) In view of the difficulties growing out of that alliance, it is not strange that the people of the United States became suspicious of all such relations with Europe. Washington, in his Farewell Address, strongly enjoins upon the American people to keep aloof from foreign political connections: "It is our policy to steer clear of permanent alliances with any portion of the foreign world." Our detached and distant situation enabled us to stand aloof from the interests and quarrels of Europe. (Stat. Man., I. 77.)

At a later period in our history this neutral policy of Washington was held to include the converse as a necessary corollary; that is to say, we would not interfere or mingle in European politics, and Europe, on the other hand, should not interfere or mingle with American politics, either in North America or South America.

As early as 1810 the American colonies of Spain began to revolt, and, following the example of the United States, began to wage wars to maintain their independence. In 1816 Buenos Ayres declared her independence, Chili in 1818, Columbia in 1819, Mexico in 1821.

The people of the United States sympathized with this movement, and privately rendered great aid to the revolted colonies, in ships and other supplies, and also in seamen; to so great an extent, indeed, that it became necessary in 1818 to amend the neutrality laws in order to prevent these hostile acts on the part of citizens of the United States. (Act of April 20, 1818, Stat. at L., III. 447.)

Up to this time the aid had been private and illegal; but there began a movement in 1818, led by Mr. Clay for the public and

official recognition by Congress of the Spanish-American colonies as independent republics. (Works of Clay, V. 377, 404, 446, 481; Benton, Deb., VI. 138-69.)

The House was not yet ready to support this policy, though commissioners were sent to South America to report on the condition of the colonies.

In 1821 Mr. Clay renewed his resolution to provide for sending ministers "to any government of South America, which has established and is maintaining its independence of Spain." (Benton, Deb., VII. 93.) By this time it was a well established fact that Spain had not the power to reconquer her provinces; that they had established and maintained *de facto* governments, the only government recognized by international law. This resolution passed the House by a vote of 87 to 68. (Ibid., VII. 99.)

In a special message to Congress of March 8, 1822 (Ibid., VII. 275), Mr. Monroe urges upon that body substantially the same policy. Both Houses passed favoring resolutions; and by the act of May 4, 1822, an appropriation was made for the support of diplomatic relations with such "independent nations on the American continent, as the President may deem proper." (Ibid., VII. 204, 5, 287, 297-309, 319, 20.)

In the mean time there had been formed, after the peace of 1815, an association of certain European powers, under the name of the "Holy Alliance," for the purpose of "preserving peace, justice, and religion in the name of the gospel." (Martens et Cussy, Treaties, III. 202.) The real object was to prevent rebellions. The alliance at first was composed of Russia, Austria, and Prussia, but France and England afterward joined it. The allied sovereigns had several meetings, notably those at Troppau, Laybach, Verona, and Aix-la-Chapelle.

In pursuance of their policy, an insurrection in Naples was put down by Austrian troops. In 1823 a French army entered Spain by authority of the alliance, and suppressed the constitutional government which the Cortes had established. England, however, refused to sanction these acts.

And now came rumors of a determination on the part of this "Holy Alliance" to aid Spain in reconquering her American colonies; also that France expected to set up a kingdom in Buenos Ayres; that the island of Cuba was to be given to France. Also a rumor that England would take possession of Cuba by force.

Mr. George Canning, Secretary for Foreign Affairs, disavowed any such intention on the part of England; but really alarmed at the rumored intentions of the continental powers, he proposed to the United States to come to an agreement with England to thwart the plans of the Holy Alliance. England feared that her commercial interests in South America and the West Indies would suffer. In August and September, 1823, Mr. Canning urged upon Mr. Rush, the United States minister, a combined declaration by Great Britain and the United States to the effect that they would not obstruct the reconquest by Spain, but they would not permit intervention by any foreign power, or the transfer to such power of any of those colonies.

Mr. Rush insisted that England should first acknowledge the independence of the South American states. This Mr. Canning refused to do;[1] but these proposals were communicated by Mr. Rush to the United States Government. Without waiting for any further action on the part of England (perhaps somewhat jealous of an English alliance) the President in his annual message, December 2, 1823, made the celebrated declaration, known as the "Monroe Doctrine." After speaking of the movements then going on in Spain and Portugal, Mr. Monroe continues: "The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced, that we resent injuries or make preparation for our defence. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective governments. And to the defence of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. *We owe it, therefore, to candor, and to the amicable relations existing between the United States and those powers, to declare that we should*

1 In 1824-6 England acknowledged the independence of Mexico and the South American Republics.

consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered, and shall not interfere; but with the governments who have declared their independence, and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we would not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States. (Stat. Man., I. 460.)

There was a fear in the United States that the allied powers, hostile as they were to democracy, would not limit themselves to the Spanish-American states, but would turn upon the United States. Even Mr. Canning dreaded the republican influence of the Western Continent. He would have liked a monarchy in Mexico and Brazil to balance the Republic, "to cure the evils of universal democracy, and prevent the drawing of the line of democracy which I most dread — America *versus* Europe." (Stapleton's Life of Canning, 394, 5.)

A congress of the allied powers had been summoned to consider the affairs of South America. But when Mr. Monroe's message arrived in Europe, its decided language had the effect, coupled with the known hostility of England to their project, to prevent the meeting of the congress, and to stop all further movements toward intervention in South America.

Mr. Monroe repeated in substance this declaration in his next annual message. And on January 20, 1824, Mr. Clay offered a resolution in the House of Representatives embodying the principles of Mr. Monroe's declaration. But the resolution was never acted upon, perhaps because the danger was past. It would appear, however, that Congress did not approve of adopting a general policy of this kind, in the absence of any specific cause. Thus the Monroe Doctrine did not become the policy of the country; it remained, as it always has remained, a temporary policy of the executive only. "This branch of the Monroe Doctrine" says Mr. J. C. Welling (North Am. Rev., April, 1856), "is not a living and substantial principle of our government policy. In case, however, of any emergency similar to that which promoted the declaration of Mr. Monroe, it would be competent for Congress

to resuscitate and enforce the principle he announced, not because it was the doctrine of Mr. Monroe, but because it might be deemed wise and expedient *at the time*."

Mr. Monroe's seventh annual message contains another declaration, which has generally been considered as forming a part of the Monroe Doctrine. This was in connection with the unsettled boundaries in the Northwest.

After the cession of Louisiana to the United States, and the successful revolutions in Mexico and South America, Russia and Great Britain were the only European powers who possessed any part of the American continent. In 1821 Russia asserted a claim to the Pacific coast as far south as the 51° North latitude. This claim was disputed by both England and the United States, and led to the declaration, introduced into the President's message by John Quincy Adams in 1823, "*that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power.*" (Stat. Man., I. 452, 3.)

No European nation would admit the truth of this declaration, and it was particularly objectionable to England and Russia, who claimed a large part of the territory in dispute.

The Spanish American states appeared to understand the declaration of President Monroe as a pledge on the part of the United States to support the other American states against European aggression. They thought to further this policy by a general alliance of American states.

The Panama Mission. — Accordingly the United States were invited to send delegates to a congress of American states to meet at Panama, for the purpose of forming an alliance for self defence, and "to take into consideration the means of making effectual the declaration of the President of the United States respecting any ulterior designs of a foreign power to colonize any portion of this continent, and also the means of resisting all interference from abroad with the domestic concerns of the American governments." Other objects were the maintenance of peace, and to settle some principles of public law to govern their relation with each other.

The President and Secretary of State received these overtures with favor; and on December 26, 1825, Mr. Adams sent to the Senate a confidential message stating his reasons for accepting the invitation, and nominating two commissioners to the congress.

But Mr. Adams explains that part of Mr. Monroe's declaration referring to colonization (of which he was the author) so as to relieve the United States of all responsibility. He says in the above message, "An agreement between all the parties represented at the meeting, that each will guard, by *its own means*, against the establishment of any future European colony within its borders, may be found advisable. This was, more than two years since, announced by my predecessor to the world, as a principle resulting from the emancipation of both the American continents."

The message encountered strong opposition in the Senate. The Committee of Foreign Affairs, to whom it was referred, reported, adversely (January 16, 1826), that it was not expedient to send commissioners to the congress.[1] The committee express good will toward the young republics, but object to "entangling connections" or internal interference with any state. (Benton, View, I. 68-9.)

After an excited debate the nominations were confirmed March 14, 1826. The bill to appropriate money to carry the mission into effect was hotly opposed in the House, but here again the admintration was sustained, though a clause was added, "that such ministers should in no way make any compact or engagement with the Spanish-American states, in regard either to any threatened intervention or any future colonization by the European powers on the American continents." (Benton, Deb., VIII. 637-75.)

The congress met as proposed, June 22, 1826, but on account of the death of one commissioner and the delay of the other, the United States were not represented. The next year commissioners from the United States proceeded to attend an adjourned meeting of the congress near the city of Mexico, but the other commissioners failed to appear.

Thus the first attempt to make the Monroe Doctrine a permanent policy of the United States failed, as such attempts always have failed since that time. "Public opinion may be considered as settled on the point that the action of the nation, in any case that may arise, must be unembarrassed by pledge or compact." (R. H. Dana, note to Wheaton, p. 111.)

---

1 It was said by the friends of Mr. Adams that the Vice-President, Mr. Calhoun, had so constituted the important committees, that a majority in each was hostile to the administration. "And the inconvenience of this state of things induced the Senate, at the latter part of the session, to take from the Vice-President the power of appointing the committees." (Stat. Man., I. 657.)

On several subsequent occasions the executive branch of the Government has appealed to the Monroe Doctrine, but it has remained a doctrine, Congress refusing to make it the policy of the nation.

One of the best authorities on this question is Mr. R. H. Dana's note 36 to Wheaton's International Law, p. 97. See also: North Am. Rev., April, 1856; and May, 1880; Young, Am. Stat., 352-61; Benton, Deb., VII. 470, note; Benton, View, I. 65-9; Am. State Pap., VI. 834-910; Webster's Works, III. 178.

The Tariff of 1824.—After the defeat of the Tariff Bill of 1820 (*supra*, p. 126) there was an annual attempt in Congress to increase the duties on imports, but without success until 1824, in which year a new tariff act with higher duties passed both houses and became a law May 22.

Mr. Monroe had continued to advocate a protective policy in his messages to Congress, and the manufacturing class resorted to public meetings and petitions to further the same policy. On the other hand, the commercial and agricultural citizens of various parts of the country remonstrated against any further encouragement to manufactures by legislative interference. (Bishop, II. 266-7.)

In the House debate on the Tariff Bill of 1824, which lasted from February 10 till April 16, the views of the various interests were fully set forth. The vague notions in regard to the true effects of a tariff which prevailed in 1816, had, by eight years of agitation of the subject, given place to definite ideas as to what was wanted by those representing different industries.

The leading speakers in favor of the bill were, Mr. Clay, Mr. Tod, Mr. Ingham, Mr. Buchanan, and others; and those opposed, Mr. Webster, Mr. Hamilton, Mr. P. P. Barbour, Mr. Forsyth, and others. On the general principles of the bill, the speeches of Mr. Clay and Mr. Webster are most noteworthy.

Mr. Clay advocated protection, not to favor local interests or special industries, but as a general system which would render the United States independent of foreign nations. "The greatest want of civilized society is a market for its surplus products of labor. Both a foreign and home market were desirable, but the latter was most important. The object of the bill was to create the latter, and to lay the foundation of a genuine American policy." (Young, Am. Statesman, 324.) Mr. Clay ascribed the financial

crisis of 1819 and the distress following it, to the want of adequate protection to home industry. He answered at length the objections to a protective policy.

This speech, delivered March 31, may be found in full in Niles' Register, XXVI. 378; Clay's Works, V. 496; see also, Benton, Deb., VII. 707; Young, Am. Statesman, 323-31.

Webster replied, April 2, that the industrial depression was not due to the condition of the tariff, but to the fact that the strong foreign demand for American products, especially those of agriculture, caused by the European wars, had ceased, and our markets were glutted with home and foreign products. Moreover, the excessive issues of bank paper and its consequent depreciation in value had raised prices to a fictitious level; but with the crisis of 1819 there came a collapse in prices, and the country had not yet recovered from the shock. Other industries as well as manufactures had suffered, and to protect the latter alone would be unjust to the former. Not all the provisions of this bill would tend to produce a home market. Protection was losing its prestige in England. It was destructive of commerce. Free trade was the general principle, and protection the exception. To the question: What nations have become eminent without encouraging manufactures? Webster replied by asking: What nations have received a like prosperity without promoting foreign trade? Webster plead particularly for the shipping interest, with which New England was greatly concerned. (Niles, XXVI. 409; Webster's Works, III. 94; Benton, VII. 712; Young, 331-40.)

The principle of this bill was distinctly protective; as explained by Mr. Tod, chairman of the committee on manufactures, the duties proposed were to be laid upon two distinct classes of articles, one embracing silks, linens, cutlery, spices, and others of less importance, which did not interfere with any home production or manufacture for which the country was prepared. Upon these the duties were to be laid with reference to revenue only. The other class embraced iron, hemp, lead, glass, wool, woolen goods, etc., upon which the duties were to be laid with reference to the protection of home manufactures.

For the details of the act see Stat. at L., IV. 25; Young, Tariff Leg., 48-50; Bishop, II. 291-2; Benton, Deb., VII. 666 *et seq.*; see further, on the subject, Young, Tariff Leg., 41-8; Benton, View, I. 32-4; Clay's Works, II. 305; Niles, XXVI. 3, 65, 113, 161, 374-8, 404.)

The duties under this tariff averaged about 40 per cent ad valorem.

The duty on woolen goods was increased from 25 per cent to $33\frac{1}{3}$ per cent (after 1825). But this act was followed in Great Britain by a reduction of the duty on foreign wool from sixpence to one halfpenny per pound, and the British manufacturer could still undersell the American manufacturer. With the expectation of being protected against foreign competition, a large amount of capital had been put into woolen manufactures ($50,000,000 in 1827), and a corresponding increase in the production of wool had taken place. Both these interests became greatly depressed. This led to the introduction of a bill in Congress, January 27, 1827, known as the "Woolens Bill." It was proposed not to increase the duties, but to apply the minimum principle to woolens, as had been done in the case of coarse cottons; manufactures of wool, whose value at the place whence imported was less than forty cents, between forty cents and $2.50, or between $2.50 and $4.00 per square yard, respectively, were to be deemed and taken to have cost those prices.

This bill passed the House, 106 to 95, but was defeated in the Senate by the casting vote of the Vice-President. (Young, Am. Statesman, 403; Bishop, II. 314-15.)

The failure of this bill was followed by efforts on the part of manufacturers to secure combined and systematic action to effect the legislation required. A convention of delegates from thirteen states met at Harrisburg, Pa., July 30, 1827. A memorial to Congress was drawn up, which had much influence in bringing about the revision of the tariff at the next session, 1828. (Young, Am. Statesman, 412-14.)

The repeated discussions of the principle of protection to manufactures had by this time begun to draw the party lines in regard to this question, and had greatly embittered the extreme advocates of the opposing policies. "The hostility of the planting interests of the South to an increase of duties on imports, with a view to encouraging manufactures, ... had gathered strength at each attempt to remodel the tariff since 1816." (Bishop, II. 321.)

But the continued distress of the woolen manufacturers, and also the depression in the iron interests, induced the House, at its next session, to attempt a revision of the tariff. (Ibid., 321.)

This action resulted in the Tariff Act of May 19, 1828. (Stat. at L., IV. 270.)

The increase of duties were not confined to the manufactures of wool and iron, but was general in its effect.

The increase of the tariff on woolens from 33⅓ to 45 and 50 per cent (after 1829), with the adoption of the minimum principle in regard to them, with some incongruous features, gave to this act the name of the "tariff of abominations."

After the passage of the Tariff Act of 1824, New England, accepting the policy of protection, invested a large amount of capital in manufactures. On this ground Mr. Webster, and the New England members generally, justified their new position, in this debate, as protectionists. (Webster's Works, III. 228.)

But Webster now appeared the advocate of protection to special interests rather than the advocate of the general principle. Still the support of New England was partly alienated from the bill because western farmers demanded in it an increased duty on molasses (an article of general use among the people, and largely distilled in New England) as a protection to their manufacture of liquors from grain. Hodges of Massachusetts thought that this provision would "transfer the capital of the New England states to other states in the Union."

The South complained that not one of its interests would be benefitted by the bill. As England had reduced to a nominal sum duties on the raw materials, especially wool and cotton, which supplied the great manufactures, the South had to sell cotton in a *free* market and buy manufactures *in a protected* market. The South, therefore, contrary to its former position, appeared as the violent opponent of protection, and endeavored by all means to make the bill obnoxious even to protectionists. Though this succeeded with New England, the Northwest and Southwest were so strongly attached to protection that the House passed the bill by 105 to 94, and the Senate also, after slight amendments. (Young, Am. Statesman, 403-18; Young, Tariff L., 50-68; Bishop, II. 321-4; Benton, View, I. 95-102; Benton, Deb., IX. 589; X. 34 *et seq.*; Niles, XXXIV. 105, 220, 395.)

III. Administration of J. Q. Adams, 1825-29.

The election of 1824 resulted in the choice of John Quincy Adams by the House of Representatives the 9th of February following. (*Supra*, p. 145.) Mr. Calhoun received 182 electoral votes, and was thus elected Vice-President.

Mr. Adams selected as his cabinet officers: Henry Clay, Secretary of State; Richard Rush, Secretary of the Treasury; James Barbour, Secretary of War; Samuel L. Southard, Secretary of the Navy (continued in office); William Wirt, Attorney-General (continued); John M'Lean was retained as Postmaster-General.

The charge had been made previous to the election by the House that Mr. Clay had made a bargain with Mr. Adams, by the terms of which Mr. Clay was to use his influence in favor of the election of Mr. Adams, and in return was to be appointed Secretary of State. The fact that Mr. Clay did support Mr. Adams, and that he was afterward appointed Secretary of State, seemed to bear out the truth of the previous charge. Mr. Clay indignantly denied the existence of any such transaction between himself and Mr. Adams.

In 1827 General Jackson published a statement that he had been approached by the friends of Clay, previously to the election by the House, with a proposition to make a similar bargain. This charge was based upon an interview with Mr. Buchanan December 30, 1824. This last-named gentlemen published a letter, August 8, 1827, denying that he had any authority to speak for Mr. Clay in 1824; but the letter was so ambiguous that the friends of Jackson insisted that it proved General Jackson's charge. Mr. Sargent (Public Men and Events, I. 143) says that Mr. Buchanan "was a moral coward, and afraid of offending General Jackson; he therefore kept silent and allowed the friends of the General all the benefit they could derive from proclaiming that the charge had been proved by his, Mr. Buchanan's, testimony. In this affair, however, he lost the confidence of the General."

Mr. Clay procured the testimony of members of Congress and other public men, and issued an address to the people of the United States accompanied with such a mass of proof to show that the charge was unfounded that it carried conviction to all impartial minds. Mr. Webster said, "The statement is clear and the evidence irresistible." In 1829, after Mr. Adams had retired from the presidency, he also denounced the charge of "bargain and corruption." (Ibid., 145.)

And yet General Jackson continued to reiterate the charge, and the crowd of politicians who followed the fortunes of Jackson found it a convenient party weapon. (Sargent, Public Men and Events, I. 68-74, 141-6; Young, Am. Statesman, 345-7; Benton, View, 48; Works of Clay, I. 287-427; Works of J. Q. Adams, VI. 509, 513, 515.)

Opposition party formed. — The first session of the 19th Congress commenced December 5, 1825. In the Senate the administration had a majority, but in the House the numbers were nearly evenly divided between the friends of the administration and the opposition, composed mainly of the friends of the disappointed candidates, Jackson and Crawford; for as yet there were no distinct issues upon which to base party divisions. (Sargent, I. 106-14.)

The attack upon the administration began immediately, the first object being the "Panama Mission" (*supra*, p. 150; Sargent, I. 115). While the discussion of this question was going on in the Senate, the House was as warmly debating a proposal to amend the Constitution, so as to elect the President and Vice-President by the direct vote of the people in districts, and to restrict the tenure of the presidential office to one term. It was said that the late election in the House was a fraud on the people, and the proposed amendments were to prevent the possibility of such an occurrence in future. A similar proposal was discussed in the Senate. (Benton, View, I. 78.) It was also moved in the Senate that the committee who had in charge the subject of the above amendments, should "be charged with an inquiry into the expediency of reducing executive patronage, in cases in which it could be done by law consistently with the Constitution, and without impairing the efficiency of the Government." The committee of which Mr. Benton was chairman made a report accompanied by six bills (May 4, 1826). The bills were as follows: 1. To regulate the publication of the laws of the United States, and of the public advertisements. 2. To secure in office the faithful collectors and disbursers of the revenue, and to displace defaulters. 3, 4, and 5. Bills to regulate the appointment of postmasters, cadets and midshipmen. 6. To prevent military and naval officers from being dismissed the service at the pleasure of the President.

Mr. Benton reported also (March 1, 1826) in favor of amending the Constitution, making members of Congress ineligible to any civil office under the General Government during the presidential term in which they shall have served.

Mr. Clay and several other members of Congress had been appointed to important offices by Mr. Adams, and the printing of the laws had been withdrawn from certain newspapers opposed to the administration, and given to others that supported it.

The committee, in their report, say "they have only touched, in four places, the vast and pervading system of federal executive patronage: the press — the post-office — the armed force — and the appointing power. They are few, compared to the whole number of points which the system presents; but they are points vital to the liberties of the country. The press is put foremost, because it is the moving power of human action; the post-office is the handmaid of the press; the armed force its executor; and the appointing power the directress of the whole. If the appointing power was itself an emanation of the popular will — if the President was himself the officer and the organ of the people — there would be less dangers in leaving to his will the sole direction of all these arbiters of human fate. But things must be taken as they are; statesmen must act for the country they live in, and not for the island of Utopia; they must act upon the state of facts in that country, and not upon the visions of fancy. In the country for which the committee act, the press, with some exceptions, the post-office, the armed force, and the appointing power, are in the hands of the President, and the President himself is not in the hands of the people. The President may, and in the current of human affairs, will be, against the people; and, in his hands, the arbiters of human fate must be against them also. This will not do. The possibility of it must be avoided. The safety of the people is the 'supreme law'; and to insure that safety these arbiters of human fate must change position, and take post on the side of the people."

By the first of these bills, the selection of newspapers to publish the laws, then made by the Secretary of State, was to be made in each state by its senators and representatives in Congress. The second required the President to give his reasons for the removal of an officer on nominating to the Senate his successor. These bills never got beyond the second reading. (Young, American Statesman, 348-52, 381-2; Benton, Deb., VIII. 688-722; IX. 1-88; Benton, View, I. 78-87; Sargent, I. 117-123, 132-34.)

The opposition continued to grow more united and cohesive. The 20th Congress, which began its first session December 3, 1827, had an opposition majority in both houses.

The direct attack upon the administration was renewed in the House in the discussion of certain resolutions introduced by Mr. Chilton, of Kentucky, advocating retrenchment in the expendi-

tures of the Government. The only result of the debate was to widen the breach between the parties. (Benton, Deb., IX. 669; Young, American Statesman, 421-28.)

The origin of the opposition to Mr. Adams is to be found largely in the disppointment of the other candidates and their friends, although Mr. Benton declares that Mr. Adams' inaugural address furnished a topic against him, and "went to the reconstruction of parties on the old line of strict, or latitudinous, construction of the Constitution. It was the topic of internal national improvement by the Federal Government." (Benton, View, I. 54.) Mr. Adams favored such works, but so had Mr. Calhoun and others of the new opposition leaders.

It may be seen, too, from the division of parties, that during these years the South began to draw more and more closely together, as if fearing for the future of the slaveholding interests, instinctively feeling that the President and his supporters were hostile to slavery. This fact is noticeable in the debate on the Panama Mission, on the Tariff Bill of 1828, and, at that time, on the question of internal improvements.

The presidential canvass had begun soon after the inauguration of Mr. Adams by the nomination of General Jackson by the legislature of Tennessee, as the candidate for President in 1828 (October, 1825). (Young, American Statesman, 391-95.)

It was said that the will of the people had been thwarted in the election of Mr. Adams, and that this must be vindicated in 1828 by the election of General Jackson. "These events in the election of 1824 played so great a part in the electoral campaign of 1828 that Senator Benton rightly designated its issue as 'the victory of the Demos Krateo principle over the theory of the Constitution.' The question of the merits of the Adams administration, and of the relative statesmanlike worth or worthlessness of the two candidates, was thrown completely into the shade." (Von Holst, II. 9.)

The election of 1828 resulted in the choice of General Jackson by a majority of more than two to one in the electoral college. (Appendix, p. 37; Von Holst, II. 1-10; Benton, View, I. 111-14; Parton, Life of Jackson, III. 137-53.)

Miscellaneous Measures and Events.

Removal of the Indians. — Soon after the acquisition of Louisiana Mr. Jefferson proposed this territory as the future residence

of all the Indian tribes east of the Mississippi. Very little was done, however, towards carrying out this plan until the presidency of Mr. Monroe. In 1825 the President recommended this policy (Stat. Man., I. 536), and it was adopted by Congress; several treaties were made with Indian tribes and their removal commenced. (Benton, View, I. 27.)

In the case of the tribes within the state of Georgia much difficulty was encountered, which led to a conflict between the General Government and the state of Georgia. In 1802, when Georgia ceded her western lands to the General Government, the latter agreed to extinguish the title of the Cherokee and Creek Indians to lands within the State of Georgia. This was not done, and in 1819 Georgia demanded the fulfilment of the agreement. By the treaty of Indian Springs, February 12, 1825, the Creeks ceded to the General Government all their lands in Georgia and agreed to move beyond the Mississippi. But the Creek nation repudiated the treaty, and killed the chiefs who negotiated it. Georgia on her part determined to execute the treaty by taking possession of the ceded territory. The Indians were subjected to state authority and a survey of the lands ordered. President Adams, convinced that the treaty had been made without due authority, interfered to prevent its execution by the State of Georgia. He forbade the survey, and sent General Gaines with federal troops to the confines of the state. Governor Troup, on the other hand, advised the legislature to stand to their arms, and gave orders to the militia looking towards resistance. On seeing the determination of the President to sustain the federal authority, Governor Troup modified somewhat his bearing; and in the meantime a new treaty was made with the Indians by which they ceded all but a small part of their lands in Georgia, and promised to go beyond the Mississippi where new lands were given them. This settled the matter in regard to the Creeks, but the Cherokees still remained a cause for trouble in the future. (Young, Am. Statesman, 361; Benton, View, I. 58; Von Holst, I. 432-48; Niles, XXVIII. 240, 371, 398.)

The Anti-Masonic Party. — In 1826 William Morgan, a Mason of Batavia, N. Y., threatened to publish a book revealing the secrets of the Masonic order. Morgan was immediately arrested, on some pretended criminal charge, and taken to Canandaigua. Being acquitted on this charge, he was again arrested for debt,

and put in jail in order to keep possession of him until arrangements could be made for finally disposing of him. He was then discharged from jail, but was immediately seized, thrust into a carriage and driven rapidly to Fort Niagara, at the head of Lake Ontario. It appears that the first intention was to send him to a remote part of Canada; but, as later revelations show, other counsels prevailed, and Morgan was taken to the middle of Niagara river in a boat and drowned. (See the statement of the late Thurlow Weed.) The disappearance of Morgan and the mystery surrounding his fate, combined with the suspicion that he had been murdered by the Masons, caused the most intense excitement.

Soon after this event, an organization was set on foot at Buffalo, based on hostility to Masonry. In March, 1828, a convention at Le Roy, N. Y., representing twelve counties, inaugurated the Anti-Masonic movement in politics. The party thus formed became powerful in New York, Pennsylvania, Ohio, Vermont and Massachusetts. (Young, Am. Statesman, 463; Sargent, I. 139.)

Result of Mr. Adams' Administration.—The policy of the administration of Mr. J. Q. Adams was the continuance of the vigorous and liberal policy inaugurated by the Democratic leaders at the close of the war of 1812-15. The development of the country was considered as an object of national care. In pursuance of this policy, liberal expenditures were made for lighthouse establishments; fortification of the seacoast; arsenals, barracks, and armories; the naval establishment; public buildings; and internal improvements.

The public debt was reduced by the sum of $30,000,000, besides paying the annual interest.

But the opposition party in Congress were able to obstruct very greatly the plans of the administration, without having any definite policy of its own.

The administration party, chiefly the adherents of Mr. Adams and Mr. Clay, began now to call themselves the National Republican party, while the opposition were generally known as the Jacksonians.

CHAPTER V.

Administrations of Jackson and Van Buren, 1829-1841.

I. Administration of Jackson, 1829-37.

General Jackson entered the White House on March 4, 1829, and with him went the "Demos." The people looked upon Jackson as one of themselves, and there was a strong class feeling mingled with the victory. Jackson, on the other hand, considered himself the special representative of the people; to them he looked as the source of his authority as executive, and it was natural that they should take part with him in the honors of the presidential office. "The President," says an eye-witness, "was literally pursued by a motley concourse of people, riding, running helter-skelter, striving who should first gain admittance into the executive mansion, where it was understood refreshments were to be distributed." Another says, "It was mortifying to see men, with boots heavy with mud, standing on the damask-satin-covered chairs and sofas" Judge Story says, "The reign of King Mob seemed triumphant." Mr. Webster remarks, "I never saw such a crowd here before. Persons have come five hundred miles to see General Jackson, and they really seem to think that the country is rescued from some dreadful danger." Another says, "The West and South seemed to have precipitated themselves upon the North and overwhelmed it.... You might tell a Jackson man as far as you could see him; his every motion seemed to cry out 'victory.'" Every Jackson editor in the country, it was thought, was on the spot. They formed "an expectant host, a sort of Praetorian band, which, having borne in upon their shields their idolized leader, claimed the reward of the hard-fought contest. It was scarcely possible "to restrain the eagerness of the multitude, every man of whom seemed bent on the glory of shaking the President's hand." (Parton, Life of Jackson, III. 169-71; Sargent, I. 163; Sumner, Life of Jackson, 136-39.)

Jackson's first Cabinet was composed as follows: Martin Van Buren, New York, Secretary of State; Samuel D. Ingham, Pennsylvania, Secretary of the Treasury; John H. Eaton, Tennessee, Secretary of War; John Branch, North Carolina, Secretary of the Navy; John M. Berrien, Georgia, Attorney-General; William T. Barry, Kentucky, Postmaster-General.

This cabinet was a weak one, and had little influence on the policy of the Government. Jackson did not propose to share with his ministers the responsibility of the executive office. For advice he relied rather upon a number of his intimate friends, who came to be called the "Kitchen Cabinet," the members of which were William B. Lewis, Second Auditor; Amos Kendal, Fourth Auditor, later Postmaster-General; Duff Green, editor of the Telegraph, the "organ" of the administration; Isaac Hill, second Comptroller of the Treasury. These men, with perhaps Eaton and Van Buren, were the confidential advisers of the President and had most to do in shaping the policy of the Government.

Jackson's inaugural address revived the charges against the last administration, made so often, in and out of Congress, during the past four years. "The recent demonstration of public sentiment inscribes on the list of executive duties, in characters too legible to be overlooked, the task of *reform;* which will require, particularly, the correction of those abuses that have brought the Federal Government into conflict with the freedom of elections, and the counteraction of those causes which have disturbed the rightful course of appointment, and have placed or continued power in unfaithful or incompetent hands." (Stat. Manual, I. 595.)

The implied charges in the above sentence are, that the last administration had interfered with elections, that it had disturbed the rightful course of appointments, and had placed or continued power in unfaithful or incompetent hands. There is not the shadow of truth in any of these charges. Mr. Adams was particularly fortunate in his selection of competent and even superior men for the offices he filled. "Whatever might be said or believed then, we know now that his administration was one of the purest, ablest, and most economical we have ever had. Even Washington's was not more so." (Sargent, I. 163.) Mr. Adams refused to make places for political adherents, even keeping in office those who were openly hostile to him. Mr. Hammond writes (Political History of New York, I. 429), "John Quincy Adams attempted to

repudiate the maxim: to the victor belong the spoils, and was soon politically prostrated." (Von Holst, II. 20, 25.)

Appointments and Removals of Civil Officers. — In 1816 Jackson had written to Monroe in regard to the selection of his "ministry, advising him to avoid "party and party feelings." "Now is the time to exterminate that monster called party spirit. . . . . the chief magistrate of a great and powerful nation should never indulge in party feelings." (Niles, XXVI. 164-5; Von Holst, II. 13.) When Tennessee, in 1825, nominated him as a candidate for 1828, he resigned his senatorship, because he might be open to the suspicion of promoting, as United States Senator, his own candidacy. He also recommended an amendment to the Constitution excluding members of Congress from federal offices, excepting judges, during the term for which they were elected and two years after its termination. (Von Holst, II. 13.)

It was very soon seen that he had modified his views on this subject. Of his first cabinet, three were members of the Senate, and one of the House; and Mr. Van Buren had been a Senator up to the first of January preceding. Many other members of Congress received important appointments. During the first six months of General Jackson's administration more federal appointments devolved upon members of Congress than had before fallen to their lot from the commencement of the Government, in 1789, down to the 4th of March, 1829 — forty years." (Sargent, I. 164; Annual Register, V. 20.)

As to the policy of proscription of political opponents, entered upon, in this country, for the first time under this administration, it is not to be ascribed wholly to Jackson as its originator. The course of the opposition during the previous four years led inevitably to such a policy. Party capital had been made by means of personal slander and general charges of corruption. It was said that Adams and Clay had corrupted the whole civil service, and many honest men believed it, probably Jackson himself. Add to this the fact that some of the President's intimate advisers were schooled in the principle of the "spoils system." That principle had been acted upon in New York since 1801, and Van Buren knew well its methods. Mr. William L. Marcy, senator from New York, said, "It may be that the politicians of New York are not so fastidious as some gentlemen are as to disclosing the principles on which they act. They boldly preach what they practice. When

they are contending for victory, they avow their intention of enjoying the fruits of it. If they are defeated they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule that to the victor belong the spoils of the enemy."

General Jackson was doubtless somewhat influenced by the feeling of revenge towards his opponents, in addition to the *task* of reform he had set himself, which was to rid the civil service of corruption. And so the proscription began.

During the first year of Jackson's presidency, about 690 officers were removed. The subordinate officers removed by these 690 swelled the number of those who lost their positions to about 2000.

The total number of removals by all former presidents was 74, distributed as follows: Washington, 9; John Adams, 10; Jefferson, 39; Madison, 5; Monroe, 9; J. Q. Adams, 2.

Mr. Benton is an apologist for Jackson in this matter, alleging that but 491 postmasters were removed out of 8000; but he does not mention the fact that these 491 possessed all the offices worth having, nor the fact that the removal of postmasters in the large cities brought about the removal of many hundreds of clerks and carriers. (Parton, Life of Jackson, III. 210.) Up to that time the subordinate officials of the departments had never been removed except for incompetency or unfaithfulness. But now "a sweep was to be made" said the Secretary of State, "of all in the departments and elsewhere, who did not 'belong to the household of the faith.'"

In 1835 Clay said in the Senate: "But I would ask the senator [Wright] what has been the effect of this tremendous power of dismission upon the classes of officers to which it has been applied? Upon the post-office, land-office, and the custom house? They constitute so many corps d'armée, ready to further, on all occasions, the executive views and wishes. They take the lead in primary assemblies whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession." (Clay's Speeches, II. 272.)

Calhoun said: "When it comes to be once understood that politics is a game; that those who are engaged in it but act a part; that they make this or that profession, not from honest conviction or an intent to fulfil them, but as a means of deluding the people;

and through that delusion to acquire power — when such professions are to be entirely forgotten — the people will lose all confidence in public men; all will be regarded as mere jugglers — the honest and patriotic as well as the cunning and profligate; and the people will become indifferent and passive to the grossest abuses of power, on the ground that those whom they may elevate under whatever pledges, instead of reforming, will but imitate the example of those whom they have expelled." (Calhoun's Works, II. 441; Von Holst, II. 25.)

See in general on this subject, Von Holst, II. 11-31; Parton, Life of Jackson, III. 206-27; Sumner, Life of Jackson, 140-49; Benton, View, I. 159; Young, Am. Statesman, 478-81; Hammond, Political History of New York, I. 429.

In his first annual message General Jackson recommended an amendment to the Constitution, by which the electoral college would be dispensed with, and the vote for President and Vice-President would be direct; also restricting the service of the chief magistrate to a single term of four or six years; prohibiting the appointment of members of Congress to civil office by the President, in whose election they may have been officially concerned; and suggesting a general extension of the law which limits appointments to four years. (*Supra*, p. 138.)

None of these suggestions were acted upon except the last. In regard to this, Jackson says: "There are perhaps few men who can for any great length of time enjoy office and power, without being more or less under the influence of feelings unfavorable to a faithful discharge of their public duties. . . . . Office is considered as a species of property, and government rather as a means of promoting individual interests, than as an instrument created solely for the service of the people. . . . . The duties of all public officers are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I cannot but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience. I submit therefore to your consideration whether the efficiency of the government would not be promoted, and official industry and integrity better secured, by a general extension of the law which limits appointments to four years." . . . . "He who is removed has the same means of obtaining a living that are enjoyed by the millions who never held office. The proposed limita-

tion would destroy the idea of property, now so generally connected with official station; and although individual distress may be sometimes produced, it would, by promoting that rotation which constitutes a leading principle in the republican creed, give healthful action to the system." (Stat. Man., I. 702-3.)

In 1836 (July 2) Congress passed a law fixing the term of postmasters whose salaries exceeded $1000 at four years unless sooner removed by the President. (Stat. at L., V. 84.) By the law of June 8, 1872, this provision is retained. Postmasters whose salary is less than $1000 are appointed and removable by the Postmaster-General. (Revised Stat., Sec. 3830.)

Jackson also advised retrenchment in the expenses of government, and the abolition of all unnecessary offices. The charter of the bank would expire in 1836, yet he took this early opportunity to enter a protest against its recharter. As to the controversy with Georgia, he took the side of that state, and advised the removal of the Indians. The surplus revenue which would accumulate in the Treasury, after the extinction of the debt, he thought should be apportioned among the several states, according to their ratio of representation..... In regard to the subjects of internal improvements, and the tariff, the language of the message was vague, doubtless purposely so, in order not to alienate the support of the extreme south, which was violently opposed to protection. (Stat. Man., I. 703, 705, 709.)

In the 21st Congress, which met for the first time, December 7, 1829, little attention was given to the recommendations of the President in regard to "retrenchment and reform" and the amendments to the Constitution. This would seem to show that the cry for reform had been made for party purposes only.

In regard to the question of the recharter of the Bank, committees in both Houses reported, in direct opposition to Jackson's advice, in favor of the renewal of the charter.

An active war upon the tariff of 1828 was begun during this session. On this question the North and South were rapidly dividing into two hostile camps; when this was finally accomplished nearly all public questions were made to turn upon the interests or supposed interests of slavery.

The first great debate since that on the Missouri Compromise, involving this growing sectional difference, was brought on upon a resolution in regard to the sale of public lands. December 29,

1829, Foot, of Connecticut, offered in the Senate a resolution "that the committee on public lands be instructed to inquire and report the quantity of public lands remaining unsold within each state or territory; and whether it be expedient to limit, for a certain period, the sales of the public lands to such lands only as have heretofore been offered for sale, and are subject to entry at the minimum price; and also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales, and extend more rapidly the surveys of the public lands."

It was said by those who favored this motion (mainly from the eastern states) that there was sufficient land surveyed and in the market (72,000,000 acres), and that it would be a needless expense to continue the rapid survey of lands. The resolution was opposed by the West and South on the ground that the result of its operation would be to check emigration to the new states and territories and limit their settlement. The eastern states were charged, not without some reason, with a design to impede the settlement of the new states. The people, it was said, were to be kept in the East to work in factories. It was for the interest of manufacturers to keep wages low, which could not be done if the wages class were continually emigrating westward, and thus causing a scarcity of laborers in the east and consequently high wages. Considering the resolution in this light, the South opposed it, as being a part of the system of protection. Colonel Hayne of South Carolina, the leading exponent in the Senate of extreme southern views, thought that after the public debt should have been paid the public lands should be handed over to the states. He distrusted the policy of creating a great national treasury and of distributing the excess among the states. It would form a corruption fund, fatal to the independence of the states. He believed *the very life of our system was the independence of the states, and no evil was more to be deprecated than the consolidation of the Government.* (Benton, Deb., X. 418-21.)

This was going back to the arguments of the Anti-Federalists of the Jeffersonian school. Mr. Webster answered them rather sharply, and defended New England's course in reference to the tariff and public lands. (Ibid., 421-23.)

Webster's speech brought on the "great debate," which had no reference to the public lands, but was a general discussion of the

nature of the Union and the relative powers of the Federal and State governments.

The great champions in this debate were Hayne and Webster.

Colonel Hayne asserted the right of nullification by a state of laws of the United States, and based his arguments in favor of this assertion upon the Virginia and Kentucky resolutions of 1798-9, and Madison's report of 1800, quoting largely from them. (Benton, Deb., X. 423-8, 438-47.)

Mr. Webster answered, January 27, 1830, in the most famous and, perhaps, the ablest of his speeches; certainly, as an exposition of the nature of the Union and a defence of the Constitution, it has not its equal. (Ibid., 428-38, 447-9; Webster's Works, III. 317-42; Young, Am. Statesman, 487-500; Benton, View, I. 130-43; Von Holst, I. 470.)

This debate was but an episode in the movement, of which John C. Calhoun was the leading spirit, to consolidate the slaveholding interests against the "American system" and anti-slavery tendencies of the North.

Calhoun had commenced his career as a statesman of liberal views on all the great questions involving the powers of the General Government. Ambitious, however, to occupy the presidential chair, he found it necessary to advocate the interests of the South, and the South, since 1820, had become radically hostile to the policy of protection to manufactures and of internal improvements by the General Government.

These were questions at issue in the election of 1828. The South had supported Jackson as a free-trader, the West and Middle States as a protectionist (so ambiguous had been his expressions). But Jackson's first message disappointed the extreme anti-protectionists; and Calhoun began to perceive that his chances of political preferment would not be increased by following Jackson's lead. He began therefore to cool in his friendship towards Jackson. Martin Van Buren, moreover, had wormed his way into the good graces of Jackson and was likely to be preferred by him as his successor. Calhoun's wishes, too, in regard to certain appointments, had been disregarded.

After the passage of the Tariff Act of 1828, the legislatures of South Carolina, Georgia, Alabama, North Carolina, and Virginia drew up vigorous protests against that act; and in some cases hinted at nullification. (Young, Am. Statesman, 470-2; Bishop,

II. 333-4.) The language used in the press and at public meetings was very violent, and threats of forcible resistance were common. The debate in the Senate between Hayne and Webster was an outburst of the pent up feelings of the time. (Von Holst, I. 406-8.)

Jackson finally became aroused by the open talk of nullification. At a dinner given on the occasion of Jefferson's birthday (April 13, 1830) the regular toasts all pointed to nullification. Jackson being called upon for a toast, gave, "Our Federal Union: it must be preserved." Calhoun followed with "The Union: next to liberty the most dear: may we all remember that it can only be preserved by respecting the rights of the states and distributing equally the benefit and burden of the Union." These sentiments foreshadowed the future action of the men. (Sargent, I. 174-6; Benton, View, I. 148.)

Soon after this event Jackson learned that Calhoun, as Secretary of War in 1818, had advised that General Jackson be tried by court martial for his conduct in the Seminole War. (*Supra*, p. 129.) Upon Jackson's request to know the truth of this statement Calhoun acknowledged it and proceeded to justify his course. From that moment Jackson was his most bitter enemy, and on the other hand Calhoun threw himself with his whole soul into the nullification movement. (Parton, Life of Jackson, III. 309-33; Young, Am. Statesman, 536-47; Benton, View, I. 167-80; Von Holst, Life of Calhoun, 87-96.) Colonel Benton says (View, I. 180), "From the rupture between General Jackson and Mr. Calhoun dates calamitous events to this country." On the other hand, Von Holst thinks Calhoun's subsequent course was not due to disappointed ambition, but rather to his sense of the duty of defending slavery. (Life, 96.)

Change of Cabinet. — The quarrel with Calhoun brought other complications. The friends of Calhoun must be got rid of. In the Cabinet, Ingham, Branch, and Berrien were favorable to Calhoun. The Cabinet was therefore reconstructed. The Eaton scandal was probably made use of by Jackson as an excuse for this change. (Parton, Life of Jackson, III. 184-205, 287-302; Sargent, I. 180-84.)

The members of the new Cabinet were: Edward Livingston, of Louisiana, Secretary of State; Louis McLane, of Delaware, Secretary of the Treasury; Lewis Cass, of Michigan, Secretary

of War; Levi Woodbury, of New Hampshire, Secretary of the Navy; Roger B. Taney, of Maryland, Attorney-General; Amos Kendall, of Kentucky, Postmaster-General.[1]

In the Kitchen Cabinet, Duff Green, a friend of Calhoun, was replaced by Francis P. Blair, who was put in charge of the "Globe," an administration newspaper established at this time. Blair and Kendall "were the leading spirits in the government of the country until 1840." (Sumner, Life of Jackson, 160.)

Mr. Van Buren was appointed minister to England, but was not confirmed by the Senate. Major Eaton was appointed Governor of Florida, and Mr. Barry, minister to Spain. (Young, Am. Statesman, 547-54; Benton, View, I. 180-2; Sumner, Life of Jackson, 160-63; Parton, Life of Jackson, III. 344-71.)

Nullification.—Soon after the final break with Jackson, Calhoun put himself at the head of the nullification movement of South Carolina. "Calhoun had now given up all hope that the protective system could be destroyed with Jackson's help in the regular parliamentary way..... He held that the time had come for a decisive step." (Von Holst, I. 465.)

In 1828, as author of "the South Carolina Exposition" (Works, VI. 1; Von Holst, Life of Calhoun, 76-83), Calhoun had drawn an economic contrast between the southern or "staple states" and the rest of the Union, arriving at the conclusion that there was a permanent conflict of interest between them, and that each state had the right to veto a federal law which is deemed unconstitutional.

July 26, 1831, he began action toward nullification by an address on "the relation between state and general governments (Works, VI. 59), which was embodied in an address to the people of South Carolina from the legislature. (Ibid., 124-44.) He adopts as the basis of his argument the doctrine of the resolutions of 1798, and says: "The right of interposition thus solemnly asserted by the state of Virginia, be it called as it may — state-right, veto, nullification, or by any other name — I conceive to be the fundamental principle of our system." (Ibid., 61.) He then discusses the dissimilarity of interests in our country, and concludes that they are so great "that they can not be subjected to the unchecked will of a majority of the whole without defeating the great end of

1 The Postmaster-General was made a member of the Cabinet on Jackson's accession to office. (Sargent, I. 165.)

government justice. The North and South are as much opposed in interests as though distinct nations." (Ibid., 134.) He denies the authority of the Supreme Court, because the United States Government in all its departments is merely an agent of the states, which they have entrusted with the execution of certain provisions of the compact made by them. The right of nullification by a state is asserted as the rightful remedy for usurpation on the part of the Federal Government. According to Mr. Calhoun this remedy was in some way to be a peaceful one. (Von Holst, I. 467-70; Parton, III. 433-5.) In a letter to Governor Hamilton of South Carolina, of August 28, 1832, Calhoun elaborates still further his doctrine. (Works, VI. 144-93; Von Holst, I. 471-5.) Calhoun here asserts that "so far from the Constitution being the work of the American people collectively, no such political body, either now or ever, did exist." "That there is no direct and immediate connection between the individual citizens of a state and the General Government." This was the very "connection" that the framers of the Constitution avowedly purposed to establish.

In 1835, in reiterating the doctrine of state rights, he asserted that the states were so far independent of one another that the law of nations was in force among them. (Benton, Deb., XII. 582.)

The Tariff Act of July 14, 1832 (*Infra*, p. 182), though ostensibly a reduction of the duties, in reality retained the protective principle.

Regarding this act as indicative of the settled policy of the country, the senators and representatives from South Carolina issued an address to the people, announcing that it remained with the *sovereign* power of the state to decide what course to pursue. The Legislature of South Carolina called a convention (October 24) to devise means of redress for the "unconstitutional" tariff laws. (Von Holst, I. 476.)

The convention reported (November 24, 1832) a Nullification-Ordinance. (Benton, View, I. 297; Benton, Deb., XII. 30; Niles, XLIII. 219.) It declared that the tariff laws of 1828 and July 14, 1832, were "unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law, nor binding upon this state, its officers, or citizens, etc." It was declared unlawful to enforce the payment of the duties within the limits of the state; and the

Legislature was instructed to pass acts to give force to the ordinance after the first of February, 1833. It forbade an appeal to the Supreme Court on questions concerning the ordinance. Addresses were issued to the people of the state, calling upon them to prepare for the crisis; and to the people of the United States, explaining the causes of these proceedings. (Von Holst, I. 476-7.) The right to withdraw from the Union was also asserted.

The Legislature which met November 27 responded to all the requirements of the "Ordinance." An act of replevin was passed, and an act to empower the Governor to employ the naval and military forces of the state. "South Carolina had legislated the Federal Government out of the state." (Von Holst, I. 477-8.)

The demands of South Carolina in regard to the tariff were, that "the whole list of protected articles should be imported free of all duty, and that the revenue derived from impost duties should be raised exclusively upon the unprotected articles." (Bishop, II. 368-9.)

Colonel Hayne was elected Governor of South Carolina in the autumn of 1832, resigning his seat in the United States Senate. Mr. Calhoun at once resigned the Vice-Presidency in order to take the vacant seat in the Senate.

On hearing of the passage of the Ordinance, President Jackson issued his nullification proclamation, December 11, 1832. (Stat. Man., II. 794.) In this he refuted the doctrine of state rights and nullification, set forth the national theory of the Government, and declared his resolution to execute the laws of the United States. (Von Holst, I. 478.) "A clearer, and .... a more correct exposition of the nature and powers of the General Government is hardly to be found in any public document." (Young, Am. Statesman, 577.) Edward Livingston, Secretary of State, was the author of the document as a whole, although the spirit and perhaps some of the language belong to Jackson. (Von Holst, I. 479, N.; Parton, III. 466; Benton, View, I. 299.)

On December 31, 1832, Governor Hayne issued a counter proclamation (Niles, 43, p. 308), and active preparations for war were hastened at Charleston. (Von Holst, I. 481.)

January 16, 1833, Jackson issued his nullification message (Stat. Man., II. 808), asking additional powers, on the ground that South Carolina had not, since the issuing of his proclamation, desisted from illegal acts, and was even organizing forces against

the United States. He stated that he had ordered the removal, for safety, of the Charleston custom-house to Castle Pinckney. (Benton, View, I. 303.)

In accordance with Jackson's wishes, Wilkins of Pennsylvania introduced the "Force Bill," January 21, 1833. It authorized the President to remove the custom-houses to places of safety; required the payment of duties in cash; authorized the President to call out troops to protect customs officers; authorized United States courts to hear causes arising under a state court, without a copy of the record of such cases from that court; directed the President by proclamation to call out a strong military force; provided jails for those sentenced under the revenue laws; and extended *habeas corpus* before the United States courts to those confined for breaking the United States laws. (Benton, Deb., XII. 37; Niles, Reg., XL. 354; Von Holst, I. 487-8.)

In the debate on this bill, Wilkins having shown that South Carolina was determined at every hazard to enforce its Ordinance, added: "They stop with nullification, but one step further on the part of the Government brings down secession and revolution." Interrupting him, Calhoun said: "It is not intended to use force except against force. We shall not stop the proceedings of the United States courts, but maintain the authority of our own judiciary." (Von Holst, I. 489.)

The debate dragged on, neither party wishing to force the final issue. South Carolina had postponed the commencement of the Ordinance, to await the action of Congress on the Verplank bill.

Verplank of New York, from the Committee of Ways and Means, had introduced in the House a bill, Dec. 27, 1832, to reduce and otherwise alter the duties on imports. (Benton, Deb., XII. 133; View, I. 308-12.) This bill was modelled on the tariff of 1816. Practically it reduced the duties from 60 to 20 per cent. The President used his influence in favor of this bill, but the protectionists opposed it. (I. 485.) During a long debate it was so amended as to be reduced to the basis of protection.

Meanwhile, the day after the nullification message was issued, Calhoun introduced in the Senate his three resolutions embodying his whole state rights doctrine, coinciding mainly with that of the Kentucky and Virginia Resolutions, and with that of his previous utterances on the subject. (Benton, View, I. 334; Deb., XII. 23-4; Von Holst, I. 487.)

In this state of affairs, to prevent civil strife, Clay introduced in the Senate his famous compromise tariff bill, February 12, 1833. (*Infra*, p. 183.) Clay preferred a reduction in the duties on imports to the risk of the entire destruction of his "American System." Calhoun supported the compromise, induced, it was said, by hearing that Jackson desired no negotiation and was determined to have him tried for high treason. (Von Holst, 492; Young, 584.)

February 25, Fletcher, in the House, moved the substitution of the compromise bill for the Verplank bill. This was finally done in the form of an amendment, thus conforming to the rule that appropriation bills must originate in the House. The bill then passed, the same day, by 118 to 84. (Benton, View, I. 309-10; Young, 585.)

Meanwhile the Force Bill had passed the Senate by 32 to 1. Eight days later, February 28, it passed the House by 136 to 34. Finally, the Compromise Bill passed the Senate March 1, by 29 to 16. (Von Holst, I. 497; Young, 585.) The President signed both bills March 2.

On the one side South Carolina claimed the victory on the ground that she did not renounce state-rights; still, the compromise did not secure complete free trade; on the other hand it was said the General Government did not give up its right to employ force. Under the "Secret History of the Compromise of 1833" (View, I. 342) Benton says that this bill was forced through Congress by J. M. Clayton of Delaware, a personal friend of Jackson's, because the President was weary of the delay and was about summarily to proceed with Calhoun.

Thus the storm was allayed. South Carolina was doubtless more willing to accept the compromise, as she found none of the other southern states ready to go with her. Calhoun continued, however, to advocate his state-rights doctrine. See on the general subject of nullification proceedings: Young, Am. Statesman, 576-87; Von Holst. I. 492-505; Young, Tariff Leg., 86.)

Public Questions in Jackson's Administration: 1. Georgia and the Cherokees. — Another question involving the principle of state rights arose in regard to the Cherokee Indians in Georgia. At the time of the trouble with the Creeks (*Supra*, *p.* 159) Georgia had extended the state laws over the Cherokees (a tribe fewer in numbers, but more civilized than the Creeks). An unavailing protest

was sent to the General Government in 1829. General Jackson's sympathy was with the state of Georgia; and he advised the Indians either to submit or to move west, because, as he said, a separate government within a state could not be allowed. (Niles, XXXVI. 231, 258-9; Stat. Man., II. 709.) The Cherokees then brought their case before the Supreme Court, retaining William Wirt as their counsel. The court held (1831) that it had not jurisdiction over such a question. (Appendix, p. 33: The Cherokee Nation *vs.* the State of Georgia.) The remedy, said the Court, was political rather than judicial. It belonged to the Executive to enforce the provisions of the treaties with the Indians.

But the President had refused to do so. On the contrary, President Jackson, on the request of the Governor of Georgia, had withdrawn the federal troops, and left Georgia to deal with the Indians.

Georgia had determined not to admit the authority of the Supreme Court. In a trial before a state court for a murder committed in the Cherokee country, Judge Clayton disregarded the writ of error issued by the Supreme Court, and the legislature of Georgia ordered Governor Gilmer to resist by force any attempt to interfere with the criminal law of the state (1830). (Niles, XXXIX. 99, 338; Benton, View, I. 166.)

In 1832 two missionaries sent out by a Boston society were arrested for residing in the Cherokee country without licenses, required by a state law. They were convicted and sentenced to imprisonment for four years. On a writ of error, the Supreme Court held that the law under which they were convicted was unconstitutional, and the men were ordered to be released. (Appendix, p. 33: Worcester *vs.* the State of Georgia.)

The state of Georgia refused to obey the decree of the Supreme Court, and the President of the United States refused to execute it; it never was executed.

The President asserted that, as Executive, he was not bound by the decision of the Supreme Court; that he was bound to support the Constitution and laws as he understood them, not as any court understood them. This doctrine is further elaborated in the Bank controversy. In the coming election, moreover, he would submit his conduct to the people, who would show their approval or disapproval of it.

By a treaty, December 29, 1835, the Cherokees consented to remove from Georgia, in consideration of the sum of $5,600,000.

This ended the difficulty. (Von Holst, I. 448-58; Young, Am. Statesman, 555-9; Sumner, Life of Jackson, 174-83; Sargent, I. 209-11; Benton, View, I. 624-6.)

2. The Bank Controversy. — In his first annual message (Stat. Man., II. 713-14), Jackson said, "The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges." (*Supra*, pp. 110, 125.) In order to avoid the evils of precipitancy "I feel that I cannot too soon present it (question of renewal) to the deliberate consideration of the legislature and the *people*." "But the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow-citizens; and it must be admitted by all that it has failed in the great end of establishing a uniform and sound currency."

If such an institution were considered essential to the fiscal operations of the Goverment, he would advise "a national one, founded upon the credit of the Government and its revenues .... which would avoid all the constitutional difficulties, and at the same time secure all the advantages of the present bank."

In his second annual message (Stat. Man., II. 753) the President expressed the opinion that it would be practicable to organize such a bank as "*a branch of the Treasury Department*, based on the public and individual deposits," etc.

On account of the trouble which arose between the administration and the bank in regard to the Portsmouth branch, the President began a determined war upon the bank. Jeremiah Mason, a National Republican, a friend of Mr. Webster and Mr. Adams, had been appointed president of the branch in New Hampshire. This was distasteful to Isaac Hill of that state. This, Mr. Parton thinks, was the cause of General Jackson's hostility to the bank. (Parton, III. 255-69.)

In 1830 a resolution in the House that the bank should not be re-chartered was tabled. (Benton, Deb., XI. 72.) Benton, in February, 1831, asked leave to introduce a similar joint resolution into the Senate, supporting it in an able speech. (Benton, View, I. 187-205; Deb., XI. 143-61.) He did not discuss the constitutionality of the charter, nor the alleged mismanagement of the bank, but set forth its dangerous powers and privileges, intending thus *to arouse the people* against the bank. He succeeded in this; but the resolution was lost by 23 to 20.

In his third annual message (Stat. Man., II. 764-66) Jackson, much in the same strain, again called the attention of Congress to the Bank. Having failed to impress his policy regarding it upon Congress he now said: "I leave it for the present *to the investigation of an enlightened people* and their representatives." This was an appeal to the people in view of the approaching election. Though he had in his three annual messages recommended a one-term amendment to the Constitution, the National Republicans believed and predicted that Jackson would accept a second term. Still, they thought Jackson's popularity on the wane, and were only too willing to stake the election on the bank issue.

They precipitated this issue by introducing into the Senate, January 9, 1832, a petition from the Bank for a renewal of its charter, on the ground that the system was so closely connected with the interests of the country that the question of its continuance should be settled at once. (Benton, Deb., XI. 357-8.) After a long debate, in which Dallas, Webster, and others supported the measure and Benton opposed it, the bill to renew the charter passed by 28 to 20. It passed the House, without much debate, by 107 to 84. (Benton, Deb., XI. 364-80, 460-88, 753.)

July 10 the bill was returned to the Senate with a veto message. (Stat. Man., II. 767-80; Niles, XLII. 365-8.) The proposed charter, Jackson says, is not "compatible with justice, sound policy, or the Constitution. . . . . All the objectionable principles of the existing corporation, and most of its odious features are retained." Through dividends paid to foreign stockholders specie is drawn from the country. The great influence of the Bank may be used in elections. To the conclusion that the constitutionality of the Bank is settled by precedent and by the decision of the Supreme Court, "*I cannot assent.*" While Congress in 1791 and in 1816 voted for a bank, in 1811 and in 1815 they voted against it. "The opinion of the Supreme Court (Appendix, p. 32) ought not to control the co-ordinate authorities of this Government. *The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution.* Each public officer, when he takes an oath to support the Constitution, swears that he will support it as *he* understands it, and not as it is understood by others. The House, the Senate, and the President, must each decide on the constitutionality of a measure, brought before them for passage or approval, as well as must the Supreme Court when that

measure demands their judicial decision. "The Bank is professedly established as an agent of the executive branches of the Government. *Neither upon the propriety of the present action nor upon the provisions of this act was the Executive consulted.*"

Thus the President declared unconstitutional past legislation, and that, too, which had been declared constitutional by the Supreme Court. Von Holst (II. 49) says: "If the Constitution does not make it the duty of the federal executive and the federal legislative powers to recoguize the judgment of the federal Supreme Court as final in constitutional questions, then there is no constitutional law of the Union." Webster, speaking on the veto, admitted that the President and Congress must consider whether a measure is constitutional before taking action upon it. "But when a law has been passed by Congress and approved by the President it is no longer in the power of the same President or of his successors to say whether the law is constitutional or not. . . . . In the courts that question might be raised, argued and adjudged . . . . nowhere else . . . . otherwise . . . . the President [might] execute or not execute the laws . . . . No President and no public man ever before advanced such doctrines." (Works, III. 416-47; Benton, Deb., XI. 513-23.)

The people believed the Bank was a monied monopoly and cared little for the constitutional question, and, as the Bank was one of the main issues in the election of 1832, they approved Jackson's policy by re-electing him by 219 votes to 67 for all other candidates.

Considering himself thus sustained by *the people*, Jackson took still higher ground in his fourth annual message. He recommended "that provision be made to dispose of all stocks now held by it (the General Government) in corporations (meaning the $7,000,000 of United States bank stock) . . . . and placing the proceeds in the Treasury." The Secretary of the Treasury is inquiring as to the safety of the public deposits in that institution. Congress should investigate the matter. (Von Holst, II. 50-2.) On the report of a second Committee of Investigation, March 2, 1833, the House resolved that the deposits might safely be continued in the Bank of the United States. (Ibid., 109-46.)

Jackson thereupon resolved to remove the deposits from the Bank on his own responsibility. As McLane, Secretary of the Treasury, did not favor the President's plan, Duane of Pennsylvania was appointed in his place. But Duane refusing also, he

was superseded by Attorney-General Taney, who at once ordered the removal of the deposits. The President then sent Amos Kendall to negotiate with the State banks with a view to their receiving these funds. After some hesitation they accepted the deposits.

In his fifth annual message (Stat. Man., II. 828-41) the President said: "I concur with him (Taney) entirely in the view he has taken." "I should feel myself called . . . . to order a *scire facias* against the Bank with a view to put to an end the chartered rights it has so palpably violated, were it not that the charter itself will expire soon . . . . it will be for those in whose behalf we all act (*the people*) *to decide* whether the executive department of the government has been found in the line of duty."

On the assembling of Congress Taney submitted his reasons for transferring the deposits (Niles, Reg., XL. 258-64.) The original act, he said, had given him authority to order and direct a change in the place of deposit. The Secretary of the Treasury being a subordinate officer, must, in the performance of his duties be subject to the chief executive. "I have always regarded the result of the last election of the President of the United States as the declaration of the majority of the people, that the charter ought not to be renewed." "Yet no steps were taken to prepare for its approaching end."

Judge Story (Life and Letters, II. 155-8) wrote to Webster that "the only check upon the Secretary's discretion is that he must assign the reasons to Congress, who, of course, are then placed in a situation to revise or renew the decision if they please. But it is a purely *personal* trust in the Secretary." "It was understood," he said, "that the deposits should not be removed except for . . . unexpected emergencies . . . . where the action of Congress could not be obtained until after it was necessary to act. Congress could not remove the deposits without his consent, but . . . . may require them to be restored without his consent." The Secretary cannot bind the Government to any arrangement he may make with the state banks.

An attack upon Jackson was made in the Senate, led by Clay and Calhoun. The President was requested to send to the Senate a copy of the paper read to the Cabinet, dated September 18, 1833. (Benton, View, I. 376; Deb., XII. 205.) In that paper Jackson says that he "considers his re-election as a decision of the people against the Bank." "He was sustained by a just people, and he desires to evince his gratitude by carrying into effect

their decision, so far as it depends upon him." He severely criticised the Bank, and proposed that the deposits be withdrawn by October 1. The President assumes all the responsibility for the act, "as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise." The members of the Cabinet are considered as mere aids, or agents of the President, for whose acts he alone is responsible. The paper was refused by Jackson in a special message December 12. (Benton, Deb., XII. 207.)

On the motion of Mr. Clay the following resolutions were passed after a very long debate: 1. That the President in causing the removal of the deposits "has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both." (This was the famous resolution of censure which was afterwards expunged at the instance of Colonel Benton.) 2. That the reasons assigned for the removal by the Secretary of the Treasury "are unsatisfactory and insufficient."

In the debate, the assumption of Jackson that the President is responsible for all acts of the heads of departments, was emphatically denied. (Benton, Deb., XII. 208, 225, 246; View, I. 402-15; Speeches of Clay, Calhoun and Ewing.)

The departments were established by law, and the duties of the heads of departments are prescribed by law. The Supreme Court were of opinion that the legislature may impose duties upon a Secretary for the performance of which he is personally responsible. (Marbury *vs.* Madison; Von Holst, II. 64, note.) See also the case of Amos Kendall *vs.* the United States. (12 Howard; Sargent, I. 211; Webster's Works, IV. 144.)

Benton defended the action of the President. (Deb., XII, 216.) He "felt an emotion of the moral sublime at beholding such an instance of civic heroism." (View, I. 379.)

In answer to the resolutions, Jackson sent a protest to the Senate, requesting that it be entered upon the journal. (Stat. Man., II. 843; Benton, Deb., XII. 308-18.)

See for the whole subject of the Bank controversy, Von Holst, II. 31-69. See also: Sargent, I. 213-29, 253-61, 268-73; Sumner, Life of Jackson, 291-321; Young, Am. Statesman, 566-75, 591-615; Parton, Life of Jackson, III. 372-416; 493-561.)

It is to be noted that the House, although not taking an active part in the bank war, yet supported Jackson against the bank. (Sumner, Life of Jackson, 314.)

The effect of the transfer of the government deposits from the National bank to state banks was to force the former to curtail its loans; which again caused a stringency in the money market, and brought on a financial panic in 1834. Petitions for relief came from all parts of the country. But the administration charged the whole trouble to Biddle and the bank. (Sumner, Life of Jackson, 315-17; History of American Currency, 102.)

The number of state banks selected as banks of deposit was 23. "The chance for favoritism was speedily perceived." The whole matter depended upon the will of the executive. "The chief argument brought to support an application for a share of the deposits, or other favor, was devotion to Jackson and hatred of the bank of the United States. . . . . It is conclusively proven that the deposits were used by Jackson's administration . . . . to reward adherents and to win supporters." (Sumner, Life of Jackson, 305-6.) Jackson's charge against the bank was that it had been "turned into an electioneering engine." (Ibid., 308.)

(*3*) *The Tariff of 1832.* — The opposition at the South to the tariff of 1828, as well as the wish on the part of the extreme protectionists to still further increase the duties, kept the subject constantly before Congress. President Jackson recommended a reduction of the tariff duties in his third annual message. (Stat. Man., II. 763.)

January 19, 1832, the House of Representatives, by resolution, called upon the Secretary of the Treasury to furnish information in regard to the manufactures of wool, cotton, hemp, iron, sugar, salt, and other articles manufactured to a considerable extent; and to prepare a tariff of duties.

Accordingly Mr. McLane made the necessary inquiries, and recommended a tariff of duties, which would reduce the total revenue from customs $10,000,000, and that arising on protected articles about $3,000,000; and the average rate of duty from about forty-five to twenty-seven per cent. This proposal was unsatisfactory to both parties. A number of bills were introduced in Congress. That reported by John Quincy Adams, chairman of the Committee on Manufactures, May 23, was finally adopted with some amendments. It was based upon the report of the Secretary of the Treasury, but more favorable to protection. It made additions of some 200 articles to the free list, enlarging it to about 270 articles, including wool costing less than eight cents a pound, teas, and others not competing with domestic productions.

It reduced the duties on a large number of articles and increased them on a few. (Bishop, II. 367.) On the protected manufactures of most importance the reduction was slight; on woolen manufactures it was increased. The distinctive protective character was retained. The reduction in the revenue derived from customs was about $5,000,000. (Young, Tariff Leg., Appendix, 10-39.)

The whole question was reargued in the Senate and House at great length. The bill finally became a law July 14, 1832, to go into effect March 3, 1833. But it never went into effect, being superseded by the compromise tariff act. Its importance in history is owing to its political effect. The tariff was made a party issue, among other things, in the election of 1832. And this act was the immediate cause of the nullification proceedings in South Carolina, already discussed. (Bishop, II. 365-8; Young, Tariff Leg., 72-83; Sumner, Life of Jackson, 220-23; History of Protection, 49-50; Benton, Deb., XI.; Clay's Works, VI. 1-55— *Speech in defence of the American System.*)

The Compromise Tariff Act. — In view of the attitude of South Carolina, and the possibility of civil war, Mr. Clay introduced his celebrated compromise bill, February 12, 1833, as he declared, to prevent the destruction of the protective system, and to arrest civil war and restore peace and tranquillity to the nation.

In his fourth annual message, December 4, 1832, President Jackson recommended a reduction of the tariff to correspond to the needs of the revenue. "Those who take an enlarged view of the condition of our country, must be satisfied that the policy of protection must be ultimately limited to those articles of domestic manufacture which are indispensable to our safety in time of war." (Stat. Man., II. 786.) In some sections of the country the influence of protection, said Jackson, "is deprecated as tending to concentrate wealth into a few hands, and as creating those germs of dependence and vice which in other countries have characterized the existence of monopolies, and proved so destructive of liberty and the general good."

The compromise bill, which was substituted for the Verplanck bill in the House, became a law March 2, 1832, having passed the House by a vote of 118 to 84, and the Senate, 29 to 16. (Stat. at L., IV. 629.)

The first section enacts that from and after the 31st day of December, 1833, in all cases where duties imposed on foreign imports shall exceed twenty per cent on the value thereof, one-tenth

part of such excess shall be deducted; a further deduction of one-tenth after December 31, of each alternate year (*i. e.* 1835, 1837, 1839) till 1839; after December 31, 1841, one-half of the residue of such excess (three-tenths) shall be deducted; after the 30th day of June, 1842, the other half of the residue to be deducted.

After June 30, 1842, therefore, there would be a horizontal tariff, with 20 per cent as the rate of duty.

Section 3 provides that from and after the 31st of December, 1842, all duties upon imports shall be collected in ready money, and all credits abolished. Said duties to be assessed upon the value of said goods at the port where the same shall be entered.

A number of articles was added to the free list, and articles paying a less rate of duty than 20 per cent before June 30, 1842, and articles now admitted free, after that date may be admitted at such rate not exceeding 20 per cent *ad valorem*, as shall be provided for by law.

By this act discrimination in favor of domestic industry was practically abandoned, but a sudden overthrow of the system was prevented. It was passed as an act of conciliation, and was afterward regarded by the opponents of protection as a compromise between the North and South, and therefore not subject to change on mere economic grounds. (Bishop, II. 372-5; Young, Am. Statesman, 583-5; Young, Tariff Leg., 84-6; Sumner, History of Protection, 50-51; Life of Jackson, 288-91; Benton, View, I. 344.)

(*4*) *Internal Improvements.* — It has been seen (*Supra*, p. 126-8) that both Mr. Madison and Mr. Monroe considered a system of internal improvements by the General Government unauthorized by the Constitution, and hence vetoed bills appropriating money for this purpose. See Monroe's exhaustive treatment of the subject in his special message of May 4, 1822. (Stat. Man., I. 492-534; Benton, View, I. 21-27.)

At the time of the election of 1824, Mr. Adams, Mr. Clay, and Mr. Calhoun were in "favor of a national system of internal improvements; Mr. Crawford and General Jackson, under limitations and qualifications." (Benton, View, I. 22.)

An act was passed April 4, 1824, intended to be annual and permanent, appropriating $30,000 for preparation by the engineer corps of surveys, plans and estimates of such roads and canals as the President may deem of national importance, in a commercial or military point of view, or necessary for the transportation of the mail. (Stat. at L., IV. 22.) In 1827-28 the whole subject

came up again on the question of passing this annual appropriation of $30,000. "The question of internal improvements then first took on a party character." (Sumner, Life of Jackson, 112.)

In his inaugural address Mr. Adams strongly urged a system of national internal improvements. This declared policy furnished, says Mr. Benton, a ground of opposition to his administration. (Stat. Man., I. 579.)

In the South a sectional opposition to the whole system developed itself very strongly in the course of time. (Von Holst, I. 394-5.)

The hopes of the opponents of the system were raised by Jackson's veto of the Maysville and Lexington road bill, May 27, 1830. (Stat. Man., I. 719.) "To justify an appropriation of money for internal improvements, the object must be one of common defense, and of a general and national and not a local or state benefit." He criticised the policy of the last administration in this respect.

At this time, says Mr. Benton (View, I. 167), internal improvement had become a point of party division, and a part of the American system, and concerted action had created for it a degree of popularity.

President Jackson did not continue to be consistent with his views expressed in the veto of the above named bill. He vetoed several bills of the same nature, but gave his assent to others, not more national in their scope. He made it a question of expediency on which he considered his judgment better than that of the majority of Congress. On the whole, however, Jackson exerted a good influence against the evil of special legislation and the tendency in Congress to mutually favor local interests. (Sumner, Life of Jackson, 191-94; Young, Am. Statesman, 506-9; Holmes, Parties and their Principles, 131-32; Niles, XL. 146-49, 207-16; Von Holst, I. 388-96.)

Mr. Holmes gives a table of the amounts appropriated for roads and harbors under each administration, from Mr. Jefferson's to Mr. Tyler's. (Holmes, 223.)

Under Mr. Jefferson	$48,400
Mr. Madison	250,800
Mr. Monroe	707,621
Mr. J. Q. Adams	2,310,475
Gen. Jackson	10,582,882
Mr. Van Buren	2,222,544
Mr. Tyler	1,076,500

(5) *Public Lands — Surplus Revenue.* — Down to 1832, the public lands had been a source of expense rather than of revenue. They had cost $49,700,000, and the revenue received had amounted to $38,300,000. During Jackson's administration there was much discussion about the disposal of the lands. Jackson vetoed a bill, in 1832, allowing to the new states twelve and a half per cent of the net proceeds of the sales of lands within their limits, to be applied to internal improvements or education.

Repeated efforts were made to effect the passage of a bill for the distribution of the proceeds of the sales of lands among the states. (Benton, Deb., X. 583; XI. 446; XII. 12: View, I. 275, 362.)

Finally a bill was introduced for the distribution of the *surplus revenue* among the states; this included the income from the lands, and it became a law June 23, 1836. (Stat. at L., V 55.) By this act the money in the treasury on the first day of January, 1837, reserving the sum of $5,000,000, was to be deposited with the several states, in proportion to their representation in Congress, but subject to recall by the Secretary of the Treasury. To be deposited in four quarterly instalments.

Three of these instalments, amounting to $28,000,000, were divided among the states; on account of the financial crisis of 1837, the fourth was postponed, and was never paid. On the other hand, no part of the money paid to the states has ever been recalled; it was mostly squandered to little useful purpose.

This was called a high-tariff measure, because it was advocated by the protectionists in order to get rid of the surplus revenue (the debt having been paid off) without necessitating a reduction of the duties.

Webster opposed distribution, believing that taxes must be reduced even at the risk of injuring some industries. (Curtis, Life of Webster, I. 537; Sumner, Life of Jackson, 186-91, 325-31; Young, Am. Statesman, 559-60, 654-56; Benton, View, I. 649, 707-12.)

(6) *The Federal Judiciary.* — The death of Chief-Justice Marshall (1835) marks a turning point in the Supreme Court. Down to that time the Supreme Court, under the lead of Marshall and Story, had upheld the authority of the Federal Government against the doctrine of state-sovereignty and a strict construction of the Constitution; and in the domain of private rights, the obligation of contracts had been strictly maintained against the legislation

of the states. (Appendix, pp. 31-4; Sumner, Life of Jackson, 119-36.)

With the appointment of Roger B. Taney to succeed Marshall as Chief-Justice, the tendency of the Supreme Court was in the opposite direction.

The opposition party known as the Jacksonians — afterwards Democrats — like the Jeffersonian Democrats, chafed under the restraint imposed by the decisions of the federal courts; and several attempts were made to restrict the jurisdiction of these courts. In other cases their decisions were disregarded by the states as well as by the Chief Executive. (Sumner, 171-74.)

President Jackson, during his administration, had the appointment of five judges of the Supreme Court, including the Chief Justice.[1] Thereafter the decisions on constitutional questions show a marked change. The first important case was that of Briscoe *vs.* the Bank of the Commonwealth of Kentucky, which involved the question of the issue by a state of "bills of credit." The decision, which was awaited with much interest, was in favor of the Kentucky law, and in direct conflict, as Story thought, with the former decision in Craig *vs.* the State of Missouri. Another decision of about the same date, which it was thought conflicted with that of Gibbons *vs.* Ogden, was in the City of New York *vs.* Miln. A third, and the most important, was the celebrated case of Charles River Bridge *vs.* Warren Bridge, which was in direct conflict with the decision in the Dartmouth College case and others, involving the clause of the Constitution prohibiting states from impairing the obligation of contracts. (Van Santvoord, Lives of the Chief Justices, 566-75; Sumner, Life of Jackson, 359-64.)

Mr. Sumner believes that in Briscoe's case "the Court broke the line of its decisions, and made the prohibition of bills of credit nugatory." Under this decision the wild-cat banking of 1837-60 became possible, and the legal-tender notes of 1862.

These decisions caused much apprehension on the part of the opponents of states' rights. Judge Story wrote: "I have been long convinced that the doctrines and opinions of the old Court were daily losing ground, and especially those on great constitutional questions. . . . . The old constitutional doctrines are fast

1 In 1807 the number of associate justices was increased to six; increased to eight by act of March 3, 1837; increased to nine by act of March 3, 1863; decreased to six by act of July 23, 1866; increased to eight by act of April 10, 1869.

fading away, and a change has come over the public mind, from which I augur little good." (Life and Letters, II. 527.) Chancellor Kent said, "I have lost my confidence and hopes in the constitutional guardianship and protection of the Supreme Court." (Ibid., 270.) For other cases see Van Santvoord, 576-612.)

The climax of this new tendency of the Supreme Court was reached in the Dred Scott case (1857).

Chief Justice Taney died in 1864, and time has modified the harsh judgment formed of him by the people of the North. (See an article in the "Century" of December, 1882, by E. V. Smalley.)

(7) *Miscellaneous—French Indemnity.*—The spoliations against American citizens under the Berlin and Milan decrees (*Supra*, p. 92) were made the subject of claims against France after the close of the war in 1815. Negotiations went on without any result until the accession of Louis Philippe in 1830. A treaty was finally made, July 4, 1831, by which France agreed to pay 25,000,000 francs and the United States 1,500,000 francs, in settlement of claims of citizens of either nation against the Government of the other. (U. S. Treaties, 289; Life of Gallatin, 567-8.)

The French Chambers refused to appropriate the money to carry out the provisions of the treaty.

In his annual message, December 2, 1834, President Jackson assumed a decided tone, and advised reprisals against France if the indemnity were not immediately paid. (Stat. Man., II. 870-73.) The French considered this message an affront, and now refused to fulfil the stipulations of the treaty unless the President should apologize. In January, 1836, diplomatic relations were broken off. But the President had modified his tone in the message of 1835, which France finally made an excuse for receding from her position. The money was voted and friendly relations between the two countries re-established. (U. S. Treaties, 1003-6; Sumner, Life of Jackson, 170-71, 343-48; Young, Am. Statesman, 630-35; Benton, View, I. 588-603.)

Attempt to introduce a Metallic Currency.—An attempt was made in 1834 to change from a paper to a gold currency. Under the coinage laws of 1792 and 1793, making the ratio of gold to silver 1 to 15, the average market ratio of the two metals down to 1833 had been about 1 to 15.6. Thus gold was at a premium, being undervalued in the coinage, and could not be kept in circulation. It was proposed, therefore, to change the ratio of the two metals,

giving gold the advantage of over-valuation. By the act of June 28, 1834, the ratio was fixed at 1 to 16, although the real ratio was about 1 to 15.6. The silver coinage remained unchanged, but the gold coins were reduced in weight, so that the money of account (gold having replaced silver as the standard of prices and contracts) was really depreciated about $2\frac{1}{4}$ per cent.

It was proposed to abolish small notes in order to keep silver in circulation. This plan failed of its object, and by act of January 18, 1837, the gold coins were slightly increased in weight, making the ratio 1 to 15.988.

"As soon as the crisis broke out in 1837 all specie disappeared, and notes and tickets for the smallest denominations came into use." (Sumner, History of Am. Currency, 103-112; Life of Jackson, 332-35; Benton, View, I. 469; Deb., XII. 496, 508-15.)

The Specie Circular. — To assist in the movement towards a coin currency, the President issued, July 11, 1836, his famous "Specie Circular," by which he ordered the agents for the sale of public lands to take in payment only specie. It was based on the law of 1816 (Stat. at L., III. 343) ordering the Secretary of the Treasury to receive only specie, or Treasury notes, or notes of specie-paying banks. The object of the circular was to arrest the excessive speculation in lands which was filling the Treasury with worthless paper.

The completion of the Erie canal in 1825, and its enlargement in 1835, stimulated the speculation in western lands till it became a mania, which is shown by the returns of sales of public lands.

1833	$3,900,000
1834	4,800,000
1835	14,700,000
1836	24,800,000
1837	6,700,000
1838	3,000,000

(Sumner, Hist. of Currency, 119.)

A bill to annul the specie circular was passed near the close of the session, in the Senate by a vote of 41 to 5, in the House, 143 to 59. Jackson, fearing that Congress would pass the bill over a veto, resorted to the method he had used before: the "pocket veto." He was thus able to defeat the will of Congress by what would seem a stretch of executive power. But on the other hand Jackson's policy was probably the only safe one, if it had been

more carefully put in practice. (Von Holst, II. 188-94; Sumner, Life of Jackson, 335-37; Currency, 130-31, 157; Benton, View, I. 676-78, 685-86, 694-757.)

"*Expunging Resolution.* — Soon after the Senate's resolution of censure of the President in the bank controversy, Mr. Benton gave notice that he would offer a resolution to expunge the resolution of censure from the journal, at every session "until he should succeed in the effort, or terminate his political life." (View, I. 428.) He persevered in this course, and finally succeeded in getting an expunging resolution passed, January 16, 1837. (Benton, Deb., XIII. 111-158; View, I. 528, 645, 719; Von Holst, II. 69; Sargent, I. 332-44; Wise, Seven Decades, 137-44; Sumner, Life of Jackson, 313-14.)

The "right of instruction" to representatives is well illustrated in these proceedings. Several states instructed their senators to vote for the expunging resolution. Some senators refused to obey instructions; others either obeyed or resigned. One of these was Mr. John Tyler of Virginia. In 1811 he had introduced in the Virginia legislature a resolution of censure against Senator Brent, for refusing to obey the instruction of that body. As he could not consistently vote for the expunging resolution, he therefore resigned. This circumstance, with his report on the bank, made him Vice-President in 1840. (Young, Am. Statesman, 986-89; Wise, 137-41; Sumner, Life of Jackson, 313.)

(7) *Slavery and Anti-Slavery Agitation.* — After the passage of the Missouri Compromise the North opposed further agitation of the slavery question, and for the following reasons: (1) A dislike to reopen a troublesome question — they thought slavery definitely limited by the "compromise" line. (2) A reverence for the Constitution, which recognized slavery in the United States. (3) A lack of appreciation of the injustice and immorality of slavery.

The Anti-Slavery movement was begun by a few individuals. The pioneer in this respect was Benjamin Lundy, a native of New Jersey. In 1821 he began, at Mt. Pleasant, Ohio, the publication of the "Genius of Universal Emancipation." Later he moved to East Tennessee, and in 1824 to Baltimore, where he began, October 10, the fourth volume of the "Genius." He travelled extensively through the United States and Canada, lecturing and organizing anti-slavery societies. He died in 1838, in Illinois. (Greeley, American Conflict, I. 111-15.)

William Lloyd Garrison, born at Newburyport, Massachusetts, was educated as a printer. In 1829 he joined Lundy at Baltimore in the publication of the "Genius." More radical than Lundy, he insisted on immediate and unconditional emancipation as the right of the slave and the duty of the master. In 1831 Garrison began the publication of the "Liberator," which proclaimed unrelenting war against slavery: "No union with slaveholders. The Constitution is a covenant with death and an agreement with hell," said Garrison. (Ibid., 115-17.)

In 1832 the New England Anti-Slavery Society was formed, and in 1833 the American, and the New York Anti-Slavery Societies, all disclaiming illegal proceedings toward abolition. (Goodell, Slavery and Anti-Slavery, 392-99.)

The emancipation movement was in progress in other countries also. The anti-slavery movement in England, begun at the end of the last century by Clarkson and Wilberforce, had its influence here. The slave trade was abolished there in 1807; and August 1, 1834, an act prohibiting slavery in the British West Indies and for the compensation of masters, took effect. English publications and English speakers were sent hither, and Garrison went to England for consultation. At about this time (1829) Mexico abolished slavery.

The anti-slavery movement met with determined opposition at the North, as well as at the South. In 1834 (July 7-11) occurred the New York riot, in which much property was destroyed. It began in a struggle between blacks and whites for the possession of a church on Chatham street. Other riots, incited by the expression of anti-slavery opinions, occurred: at Philadelphia, August 13, 1834; at Worcester, Massachusetts, August 10, 1835; at Concord, New Hampshire, on the same day; at Northfield, New Hampshire, December 4, 1835; at Boston, October 21, 1835, when "a large and most respectable mob" broke up a meeting of the female anti-slavery society. Garrison was dragged through the streets with a rope around his body, and finally lodged in jail by the mayor for protection. The same day, at Utica, New York, a meeting called to form an anti-slavery society was broken up by a "respectable" committee of citizens. The office of a newspaper favoring abolition was assailed and its press destroyed.

In 1837, at Alton, Illinois, a mob destroyed the printing press of Elijah P. Lovejoy, the publisher of an anti-slavery paper, and

killed Lovejoy. At a meeting in Boston to consider the fate of Lovejoy, Wendell Phillips first appeared as an abolitionist.

In many parts of the North the education of colored persons was not permitted. Thus at New Haven; at Canterbury, Connecticut; and at Canaan, New Hampshire. (Greeley, I. 125-28; Goodell, Slavery and Anti-Slavery, 404-7; Wilson, Rise and Fall of the Slave Power, I. 165-88; Bryant and Gay, IV. 316 *et seq.*; Von Holst, II. 80-110.)

The slave owners took alarm and became furious against the abolitionists. In 1831 Georgia offered a reward of $5000 for bringing Garrison before its courts. In 1835 a grand jury in Alabama indicted Williams, the editor of the "Emancipator," in New York, for the dissemination of seditious papers; and the Governor of the State demanded of Governor Marcy, of New York, the extradition of Williams for trial in Alabama.

The South demanded that the North, besides the zeal shown against anti-slavery agitation, should pass penal laws against the abolitionists and suppress the anti-slavery societies and publications. Such laws were recommended by the Governor of Massachusetts — Edward Everett, and the Governor of New York — W. L. Marcy, but none were passed. (Von Holst, II. 111-15.)

In the mean time abolition publications were going through the mails. At Charleston, South Carolina, July 29, 1835, pursuant to a resolution of a public meeting, the mail was rifled and abolition papers burned. Amos Kendall, the Postmaster-General, being appealed to, wrote: "That the Postmaster-General has no legal authority . . . . to exclude from the mails any species of newspapers, etc." But he adds, "If I were situated as you are, I would do as you have done." In a letter to the postmaster of Charleston he says, "We owe an obligation to the laws, but a higher one to the communities in which we live; and if the former be perverted to destroy the latter, it is patriotism to disregard them." (Von Holst, II. 121-27; Greeley, I. 128-29.)

In his message of December 2, 1835, President Jackson recommended the passage of a law prohibiting, "under severe penalties, the circulation in the Southern States, through the mails, of incendiary publications intended to instigate slaves to insurrection." (Stat. Man., II. 1018, 19; Von Holst, II. 128.)

"At this session," says Benton (Deb. XII. 705, note), "the slavery question became installed in Congress and has too unhappily kept its place ever since."

Calhoun, chairman of the committee to which the above part of the President's message was referred, drew up a report reiterating the doctrine of state sovereignty. At the same time he introduced a bill providing that each state should determine for itself what publications it would consider incendiary, and that Congress should then prohibit such matter to be sent to that state.

The President's message proposed that Congress should have the regulation of the matter. (Greeley, I. 129.)

Webster said the proposed law was unconstitutional, because it interfered with the freedom of the press and of speech. (First amendment, Appendix, p. 26.) The bill was finally defeated by a majority of six. (Von Holst, II. 128-39; Benton, View, I. 580-88.)

Calhoun had attempted to unite the South on the subject of the tariff. Failing in this, he now fell back upon the slavery question, in regard to which the anti-slavery agitation offered a favorable opportunity. This was nullification "in a new guise." In an article in the Charleston Mercury, 1835, entitled the "Crisis," supposed to have been inspired by Calhoun, it was proposed to hold a convention of the slave-holding states to claim a redress of grievances. But the first attempt in this new direction was a failure. (Benton, View, I. 609-10; Von Holst, II. 131-39.)

The Right of Petition. — The first amendment to the Constitution secures to the people the right of petition. (Appendix, p. 26.) The long and bitter discussion of this subject began on the presentation of two petitions in the Senate, by Mr. Morris of Ohio, January 7, 1836, praying for the abolition of slavery in the District of Columbia. It was claimed under Art. I. Section 8, clauses 17 and 18 (Appendix, p. 19), that Congress had full authority in the matter. (Benton, Deb., XII. 705-10.)

Calhoun moved to reject the petitions.

This attack upon the sacred right of petition, aroused the North, and greatly strengthened the anti-slavery cause. Mr. Buchanan said (Ibid., 733), "Let it once be understood that the sacred right of petition and the cause of the abolitionists must rise or must fall together, and the consequences may be fatal. I would warn, therefore, southern gentlemen to reflect seriously in what situation they place their friends to the North by insisting that this petition shall not be received."

The general desire in Congress was to quiet the agitation. But petitions kept pouring in, and the question was constantly arising

as to what to do with them. Calhoun proposed to reject them; others to table them; others to refer them in the regular way.

Calhoun introduced, December 27, 1837, six resolutions defining the limits of federal authority over the institution of slavery and providing for the annexation of Texas. (Benton, Deb., XIII. 567-68; View, II. 134-40; Von Holst, II. 272-84.)

Similar petitions, presented in the House, were met by the five "Gag Resolutions." (Greeley, I. 144-47), the first, May 26, 1836, and the last, January 18, 1840. (Von Holst, II. 283-91; Benton, View, I. 615-23; Holmes, 179-92; Young, Am. Statesman, 640-54.)

On September 20, 1837, William Slade of Vermont, in presenting certain petitions, proceeded to make the first great attack on slavery in Congress. (Von Holst, II. 263-65.)

This caused the "great secession," — the withdrawal of the members from the slave states. (Benton, Deb., XIII. 565, notes, and 566.)

The effect of the "gag resolutions" and the discussion upon them was favorable to the abolition cause. Though with the help of a few northern men ("northern men with southern principles"), the South had gained the ascendancy in Congress. But throughout the North, opposition to slavery gained ground. Petitions against slavery increased, and several state legislatures passed resolutions declaring the "gag resolutions" unconstitutional. (Wilson, I. 366; Von Holst, II. 284.)

(*8*) *Political Parties and Changes.* — The Jackson men professed to go back to the principles of the Jeffersonian Democracy, from which the Democratic-Republican party had departed during the administrations of Madison, Monroe, and J. Q. Adams. Still there was great diversity of opinion in the party, which was held together rather by the personality of Jackson, than by adhesion to a definite policy.

In 1832 Jackson was elected, nominally on the issues of the bank, internal improvements, and the tariff; but Congress supported all these measures, and Jackson supplied the want of a party majority in Congress by the use of the veto power.

In 1832 the opposition to Jackson was not united, and therefore was powerless.

The National Republicans nominated Clay and Sergeant, relying mainly upon the bank issue.

The Anti-Masons, who had become strong in the middle states, were equally hostile to the Administration, but would not unite with the other party. Their nominees were William Wirt and Amos Ellmaker.

The friends of Calhoun, alienated from the administration, could not join the opposition.

Jackson and Van Buren were the Democratic candidates.

The nominations for this election were made for the first time by national conventions, in place of the congressional caucus. (Sumner, Life of Jackson, 254-5, 258, 273, 375, 378; Young, Am. Statesman, 564-5; Von Holst, II. 38-44.)

Jackson and Van Buren were elected by a large majority of the electoral vote, but by a diminished popular majority. (Appendix, p. 38; Sumner, 250-76; Benton, View, I. 282-3; Sargent, I. 247-49.)

In 1836 the party divisions were mainly narrowed down to two — the Democratic, or Jackson party, and the Whig party. Still there were minor party divisions. The National-Republicans had assumed the name of the Whig party in 1834-36, and the Anti-Masons had for the most part coalesced with them. But the party was unable to unite upon a single candidate, the sectional differences between the North and South beginning to exercise an influence upon party lines. The northern Whigs voted for Harrison and Webster, the southern, for Hugh L. White, of Tennessee.

In New York the Democratic party was torn by dissensions from 1834-36, by the secession of the "Equal-rights party," who found it necessary to again "return to the Jeffersonian fountain" of pure democracy. They became known as "Loco-Focos," a term applied afterwards to the regular Democratic party.

The Democratic convention met at Baltimore, May 20, 1835, and having adopted the two-thirds rule, chose as candidates Martin Van Buren and Richard M. Johnson.

For President, Van Buren received 170 electoral votes; Harrison, 73; White, 26; Webster, 14 (Massachusetts); Mangum, 11 (South Carolina). The popular vote for Van Buren was 761,549; all others, 736,656. For Vice-President, Johnson had 147 votes; Francis Granger, supported by the friends of Harrison, 77; John Tyler, indorsed by the supporters of White, 47; William Smith, 23. As no one had a majority, the Senate elected Johnson. (Sumner, Life of Jackson, 374-82; Benton, View, I. 683; Sargent, I. 296.)

General Jackson as President, continued to be Jackson the General, and assumed to himself the power of a dictator, upon whom the people had conferred the task of seeing that no harm should befall the republic. In the performance of this task he came into frequent collision with the other departments of the Government, but particularly the Senate and the Supreme Court.

The Senate could retaliate for the exercise of the veto power by refusing to confirm the President's nominations to office. In 1831 the nomination of Van Buren as minister to England was rejected by the Senate, as was that of Taney as Secretary of the Treasury and as an associate Justice of the Supreme Court. But in both cases Jackson triumphed, for Van Buren was made Vice-President and then President, and Taney, Chief Justice.

In many cases, as we have seen, the President set his judgment above that of Congress, and used all his personal and official influence to carry his point. In some cases history has vindicated the views of Jackson, if not his methods; in other cases he was certainly in the wrong. He performed many praiseworthy deeds. But it was not intended by the framers of the Constitution to create an Executive who should be above the law, and who could ignore the other departments of government. Jackson's administration tended to a personal government, in which all opposition was crushed out by the iron will of one man, and he a man moved by passions and prejudice. "Representative institutions, says Professor Sumner, are degraded on the Jacksonian theory, just as they are on the divine-right theory, or on the theory of the democratic empire. There is not a worse perversion of the American system of government conceivable than to regard the President as the tribune of the people, endowed by his election with prerogative to check, warn, correct, guide and watch the representatives of the nation in Congress assembled." (Life of Jackson, 277-81; Von Holst, II. 71-79; Benton, View, I. 735-39; Sargent, I. 345-49.)

II. Administration of Van Buren.

Van Buren, the heir adopted by Jackson to succeed him, was to carry out the policy of his great patron. As set forth in his inaugural address, Van Buren's general policy was to be: 1. A close observance of the Constitution *as written*, and no latitude in its interpretation. 2. No employment of doubtful powers. 3. A

faithful adherence to the compromises on the subject of slavery. No bill conflicting with them could receive his sanction. This was a pledge to quiet the fears of the South. (Stat. Man., III. 1049; Benton, View, II. 7-9; Von Holst, II. 219-21.)

Upon the economic questions which wrecked his administration Mr. Van Buren had nothing to say.

The Financial Crisis of 1837. — The general causes of this crisis were in the main the same as those of the crisis of 1819 — excessive extension of credits and the over-issue of paper money.

There had been a long period of prosperity, both in England and America, and consequently a great accumulation of capital, which was now seeking investment. Western lands and the development of the West were considered as promising good returns. But legitimate bounds were soon over-stripped, and a period of wild speculation set in. There was a demand for more money and credit than could be supplied, as the United States bank, on the withdrawal of the deposits, had contracted its loans.

In view of the expiration of the charter of this bank in 1836 and the demand for money, a great number of state banks sprang into existence, and began the issue of notes and the lending of their credit. This added fuel to the flame of speculation. The paper was practically irredeemable, "but the enhanced prices and expanded credit continually absorbed the new issues, and no depreciation occurred until a shock to credit and prices from outside causes produced a collapse." (Sumner, Currency, 122-27; Von Holst, II. 174-75; Condy Raguet, 143, 146, 174, 176.)

Jackson's treatment of economic questions no doubt hastened the crisis. Thus the transfer of the deposits and the specie circular, as well as the acts of Congress changing the ratio of the gold and silver coins, and the distribution of the surplus revenue, were causes affecting more or less the currency and course of exchanges, and therefore helped to burst the bubble of excessive credits and wild speculation.

From 1831 on the imports had been greatly in excess of the exports, the excess being paid for with credit, instead of coin.

In 1838 Mr. Webster estimated that $100,000,000 of European capital had been loaned, in the United States, to states, corporations, and individuals, to be used in internal improvements. (Von Holst, II. 183.) In 1839 Mr. Van Buren estimated the amount at $200,000,000. (Stat. Man., III. 1244.)

The crisis began in England by the failure of three houses doing a large business with America. There was a break in the price of cotton from about 17 to 10 cents, and by March, 1837, several houses in New Orleans were in trouble. Next the pressure was felt in New York, and by April the crisis was general throughout the country. Prices fell from 25 to 50 per cent. May 10, the New York banks suspended specie payments, a law being passed by the legislature to allow them to suspend for one year. The other banks followed the example of the New York banks. (Sumner, Currency, 139-40.)

The opposition laid the blame upon the Administration and demanded the rescinding of the specie circular, and other measures of relief.

Mr. Van Buren did not accede to these demands, but he called an extra session of Congress for the 4th of September, 1837. (Von Holst, II. 198-99)

The President in his message gave a pretty clear and correct statement of the causes of the crisis (Stat. Man., II, 1053-55); and denied the authority of the Government to give direct relief.

The crisis had to run its course until all the artificial wealth had been swept away, and a great deal besides; then the tide turned, trade slowly revived, and with the exception of the bank crisis in 1839, prosperity was again reached. On the subject in general, see Von Holst, II. 192-218; Sumner, Currency, 132-61; Benton, View, II. 9-28; Walker, "On Money," 498-508; Sargent, II. 10-15.)

The Sub-Treasury. — The most important part of Van Buren's message of Sept. 4, 1837, is that recommending the separation of the "fiscal concerns of the Government from those of individuals or corporations." The state banks had proved to be unsafe depositories of the public moneys, and a national bank was also unsatisfactory: he would, therefore, sever the "connection between the Government and the banks of issue," and let the Treasury take the care of its own deposits and exchanges. (Ibid., 1055-62; Von Holst, II. 200-203.) The fiscal arrangement thus proposed by Mr. Van Buren has since been known as the Independent Treasury or Sub-Treasury. The originator of this plan was not Van Buren, but Mr. William F. Gordon, of Virginia, who proposed it in the House as an amendment to the "local bank deposit regulation bill, June 20, 1834, and made a speech in advocacy of it. (Benton, Deb., XII. 506, 507; XIII. 403.)

A bill to establish the sub-treasury was reported to the Senate by Mr. Wright, chairman of the Committee on Finance. It met with strong opposition from the Whig leaders, Clay, Webster, and others, and also from a section of the Democratic party who opposed the war upon the state banks and credit system.[1] But Calhoun, who had generally acted with the Whigs since 1833, now gave his support to the administration.

The Sub-Treasury bill, or "bill imposing additional duties as depositaries, in certain cases, on public officers," passed the Senate, 26 to 20. (Benton, Deb., XIII. 374-448; Webster's Speech, 414; Webster's Works, IV. 334; Clay's Speech, Deb., 401; Clay's Works, VI. 310.) The bill was defeated in the House, 120 to 107. (Benton, Deb., XIII. 520-43; Young, Am. Statesman, 679-80.) Brought up again in the regular session, the bill was again defeated (Young, Am. Statesman, 689; Benton, View, II. 124), but passed finally in 1840, and became a law July 4 of that year. (Benton, Deb., XIII. 620-55; XIV. 41-42; Stat. at L., 385; Sumner, Currency, 161-62.)[2]

At the special session of Congress of 1837, bills were passed, postponing until January 1, 1839, the deposit with the states of the fourth instalment of the surplus revenue; authorizing the issue of $10,000,000 in treasury notes, for the immediate wants of the Government; appropriating $1,600,000 for the expenses of the Seminole war, and providing for adjusting the claims upon the late deposit banks.

When the time for the payment of the fourth instalment came the treasury had a deficit and could not pay it, and it was never paid.

The New York banks resumed specie payments May 10, 1838, as required by law, and the other banks followed. (Sumner, Currency, 143-46; Benton, View, II. 83-91; Von Holst, II. 212-14.)

The New York legislature passed a law in the same year (1838) requiring banks to give security for their notes by "a pledge of public stocks and real estate." (Condy Raguet, History of Banking, 212, and Appendix, 252; Walker on Money, 498-508.)

In 1839 the banks were again embarrassed, and those of the South and West suspended. (Von Holst, II. 215-17; Sumner, 148-54.)

1 These persons became known as the "Conservatives," and acted generally with the Whigs.

2 The act was repealed August 10, 1841; and re-enacted in 1846.

Miscellaneous Measures and Events — (*1*) *The Seminole War*, begun in December, was the last of the struggles to get possession of the Indian lands in the South. (Von Holst, II. 293-311 ; Benton, View, II. 70-82.)

(*2*) *The Canadian Rebellion* took place in 1837-38, in which an attempt was made by citizens of the United States to aid the rebels. (Young, Am. Statesman, 712-15)

(*3*) *The contest for the New Jersey seats.* (Young, Am. Statesman, 728-32 ; Von Holst, II. 336-40 ; Sargent, II. 96.)

(*4*) *Swartwout's defalcation* in the New York custom house came to light in 1838 ; and was laid hold of by the opposition as a proof of the charges of corruption made against the administrations of Jackson and Van Buren. (Von Holst, II. 350-61.)

Van Buren's Cabinet. — As at first constituted, the cabinet consisted of the following men : John Forsyth, of Georgia, Secretary of State ; Levi Woodbury, of New Hampshire, Secretary of the Treasury ; Joel R. Poinsett, of South Carolina, Secretary of War ; Mahlon Dickerson, of New York, Secretary of the Navy ; Amos Kendall, of Kentucky, Postmaster-General ; Benjamin F. Butler, of New York, Attorney-General. All of these, except Poinsett, were continued from Jackson's cabinet. Slight changes occurred : in 1838 James K. Paulding, Secretary of the Navy, in place of Dickerson, resigned ; Feelix Grundy, Attorney-General, and in 1840, Henry D. Gilpin, in place of B. F. Butler ; 1838, John M. Niles, Connecticut, Postmaster-General, in place of Amos Kendall.

The Election of 1840. — The Whigs passed over their great leaders, and selected as a candidate a military hero, General Harrison. John Tyler, a conservative Democrat, was nominated for the Vice-Presidency. (Von Holst, II. 361-75, 383-92.) Van Buren and R. M. Johnson were the Democratic candidates. The anti-slavery men had now decided to enter the field of politics as a separate party, and nominated at Warsaw, New York (November, 1839), James G. Birney as their candidate for President.

The electoral campaign of 1840 marks a new departure in such proceedings. It inaugurated mass meetings, campaign songs, etc. (Von Holst, II. 392-96 ; Sargent, II. 107-111 ; Young, 735-38 ; Benton, View, II. 203.)

For the result of the election see Appendix, p. 38)

CHAPTER VI.

Administrations of Harrison, Tyler, Polk, Taylor, Fillmore, Peirce and Buchanan, 1841–1861.

I. Administrations of Harrison and Tyler, 1841-1845.

General Harrison selected as members of his Cabinet:

Daniel Webster, Massachusetts, Secretary of State.
Thomas Ewing, Ohio, Secretary of the Treasury.
John Bell, Tennesee, Secretary of War.
George E. Badger, North Carolina, Secretary of the Navy.
Francis Granger, New York, Postmaster-General.
John J. Crittenden, Kentucky, Attorney-General.

Harrison's inaugural address was a general protest against the executive policy of Jackson and Van Buren; and he promised, so far as it lay in his power, to reform the abuses. He believed much harm would be prevented by making the President ineligible for a second term. (Von Holst, II. 377; Stat. Man., III. 1199.) He criticised the use made of the executive patronage, and promised to institute a reform in this respect. (Stat. Man., III. 1202-4.) The President was invested with the veto power to prevent hasty legislation and protect the minority, but not to make the executive a part of the legislature. (Ibid., 1201.)

In accordance with this policy, Mr. Webster, Secretary of State, issued a circular to the heads of departments, March 20, 1841, stating "that partisan interference in popular elections, whether of State officers, or of officers of this Government, and for whomsoever or against whomsoever it may be exercised, or the payment of any contribution or assessment on salaries or official compensation for party or election purposes, will be regarded by him (the President) as cause of removal..... Persons employed under the Government, and paid for their services out of the public treasury, are not expected to take an active or officious part in attempts to influence the minds or votes of others." (Sargent, II. 116-20; Niles, LX. 51-52.)

This policy was displeasing to the politicians and office-seekers, and was difficult to put in practice. (Von Holst, II. 407-8; Autobiography of Amos Kendall, 432-34.)

Having called an extra session of Congress for May 31, Mr. Harrison died, April 4, 1841, and for the first time in the history of the country the Vice-President became President. The Whigs had not counted upon such a contingency in nominating Mr. Tyler, and were now very much concerned as to the policy he would pursue.

The principal dates and events in the life of JOHN TYLER are as follows:

1790 . . . . Born in Charles City County, Virginia.
1807 . . . . Graduated from William and Mary College.
1807 . . . Admitted to the bar.
1811 . . . . Elected to the legislature of Virginia by the Democrats.
1816-21 . . Member of the House of Representatives.
1823-25 . . Member of the legislature of Virginia.
1825-27 . . Governor of Virginia.
1827-36 . . United States Senator.
1838 . . . . Elected to the state legislature by the Whigs.
1839 . . . . Delegate to the Whig Convention at Harrisburg.
1841 . . . Vice-President.
1841-45 . . President.
1862 . . . . Died at Richmond, a member of the Confederate Congress.

(Biographical Sketch of Tyler; Stat. Man., II. 1210-28; Von Holst, II. 383-89.)

Tyler continued in office the Cabinet of Harrison, and intimated in his address that he would pursue the general policy of Harrison.

Congress met in extra session, May 31, 1841, having a Whig majority in both houses. And Clay, anxious for a "clean sweep," announced June 7 a plan of reform, the chief points of which were as follows:

(1) The repeal of the Sub-Treasury. (2) The incorporation of a national bank. (3) The provision of an adequate revenue by the imposition of duties, and including an authority to contract a temporary loan to pay the public debt created by the last administration. (4) The prospective distribution of the proceeds of the public lands. (Benton, Deb., XIV. 291-92; Von Holst, II. 410-16.)

In accordance with this programme a bill for the repeal of the Sub-Treasury was passed by the Senate, June 12; by the House, August 9, and was signed by the President August 17. (Benton,

View, II. 219-29.) This was a measure preliminary to the establishment of a bank.

Bank Bills. — The Secretary of the Treasury, Mr. Ewing, reported, June 12, a plan for the incorporation of a "Fiscal Bank of the United States," which he supposed to be free from the old constitutional objections. It differed from the former bank in two essential points: (1) It was to be incorporated in the District of Columbia, where Congress had the power of a state legislature; (2) Branches could only be established with the assent of the states.

A bill, based essentially upon the Secretary's report, was reported by Mr. Clay, June 21, and was finally passed by Congress, August 6; but it was returned on the 16th with the President's veto, as being unconstitutional. (Stat. Man., III. 1400-1406; Young, Am. Statesman, 747-49; Benton, View, II. 317-31; Von Holst, II. 425-26.)

The Whigs were in great consternation, A new bill was drawn up and submitted to the President for his approval; and under the title of "Fiscal Corporation of the United States" was passed by Congress, September 3. In the mean time, Tyler having decided to assent to no bank bill, returned it with his veto, September 9. He was doubtless influenced by the Botts letter of August 16. (Stat. Man., III. 1406-15; Young, 749-54; Sargent, II. 132-36; Von Holst, II. 427-33; Benton, View, II. 331-53.)

Upon the receipt of the second veto all the members of the Cabinet except Webster resigned, basing their reasons upon the "want of uprightness which Tyler had shown during these transactions." Webster was induced to remain for the purpose of settling the differences with England, then in a critical state. (Von Holst, II. 434-35; Benton, View, II. 353-57.)

The new members of the Cabinet were: Walter Forward, Secretary of the Treasury; John C. Spencer, Secretary of War; Abel P. Upsher, Secretary of the Navy; Charles A. Wickliffe, Postmaster-General; Hugh S. Legaré, Attorney-General.

On the last day of the extra session, September 13, the Whig members issued a manifesto, declaring the complete separation of the Whig party from Tyler. But the Whigs were divided among themselves, the more moderate men believing it better to temporize. (Von Holst, II. 435-39.)

Finances. — The Secretary of the Treasury reported, June 1, 1841, a deficit for the year of $11,000,000. As a temporary relief

Congress authorized a loan of $12,000,000, August 10. Notwithstanding this condition of the Treasury the Whigs carried through a bill, September 4, 1841, ordering the division among the states of the net proceeds of the sales of public lands. The anti-tariff men were able to have the following proviso inserted: that if during the existence of this act there should be an imposition of duties inconsistent with the act of March 2, 1833, and beyond the rate of duty fixed by that act — 20 per cent—the distribution provided by this act should be suspended, until this cause was removed. (Von Holst, II. 440-47.) The passage of a bankrupt bill was a part of the bargain by which the above bill was passed. (Ibid., 448-50.)

Congress also passed, September 11, 1841, a temporary tariff act laying duties on certain articles of the free list and raising to 20 per cent the duty on others which had paid a lower rate. (Benton, View, II. 311-15.)

The Tariff of 1842. — The temporary measures were not adequate to the relief of the Treasury, and at the next session of Congress the subject of taxation again came up. The Whigs proposed to increase the duties above 20 per cent, notwithstanding the compromise of 1833. That act would take effect on July 1, 1842, with its ad valorem rate of 20 per cent, home valuation, and no credit.

Mr. Fillmore, from the Committee of Ways and Means, reported a tariff bill, June 3, 1842. But as this could not be got through before the first of July, a provisional tariff bill was reported, June 7, which might be passed before that time. By this bill the duties exceeded 20 per cent: it therefore violated the compromise act, and rendered the distribution act of September 4, 1841, inoperative. But a clause was introduced annulling the proviso of the distribution act. For this reason the bill was vetoed by the President, June 29, 1842. The general tariff bill containing the distribution clause was passed August 5, and vetoed August 9.

A third tariff bill, without the distribution clause, was now passed, in the House by 105 to 103, in the Senate by 24 to 23, and approved by the President August 30, 1842. (Stat. at L., V. 548.)

This tariff, although primarily for revenue, was made distinctively protective. The average rate upon dutiable goods was about 33 per cent. (Young, Am. Statesman, 756-84; Young, Tariff

Leg., 88-92; Benton, View, II. 413-17; Von Holst, II. 451-63; Sumner, Tariff, 52-54.)

Relations with England. — Besides the questions left unsettled by the treaty of peace of 1814, other causes of dispute had arisen, until the relations between the two countries had become very delicate.

By the convention of October 20, 1818, a settlement was made in regard to the fisheries; the boundary between the two countries from the Lake of the Woods to the Stony (Rocky) Mountains was fixed upon the 49° of north latitude; and the country west of those mountains (claimed by both parties) should be free to both for the term of ten years. (Treaties, 349, 1024.)

As to the northeastern boundary (*Supra*, p. 36), Great Britain contended that the "highlands," mentioned in the treaty of 1783, were south of the river St. John, while the United States insisted that the highlands meant were those north of that river. In 1827 the subject in dispute was referred to the King of the Netherlands; but his award was rejected by both parties. Negotiations were resumed from time to time, but with no result until 1842, when Mr. Webster took the matter up, and concluded at Washington with Lord Ashburton the treaty of August 9, 1842.

By this treaty the conflicting claims in regard to the northeastern boundary were settled by a compromise. The boundary line was to extend from the source of the St. Croix north to the St. John, up the St. John to the river St. Francis, up this river to Lake Pohenegamook, thence southwest along the Highlands to the 45° of north latitude, and west to the St. Lawrence. (Article I. Treaties, 370; Benton, Deb., XIV. 534-39; View, II. 438-41.)

Article II. describes the boundary west to the Lake of the Woods.

The navigation of the St. John was to be free.

By Article VIII. each party agrees to keep a naval force in service on the coast of Africa for the suppression of the slave trade.

Article X. stipulates for the extradition of persons charged with the crime of murder, piracy, arson, robbery or forgery.

The question of the violation of neutral territory by the burning of the steamer Caroline in 1838 by a detachment of Canadian militia was not mentioned in the treaty. But it was settled by correspondence between Mr. Webster and Lord Ashburton, on the showing by the English envoy that the act was done in self de-

fense. (Webster's Works, VI. 296-301; Dana's Wheaton, 526-27.)

As to the question of impressment no agreement could be had. But Mr. Webster's vigorous statement, "*that in every regularly documented American merchant-vessel, the crew who navigate it will find their protection in the flag which is over them*," was considered as fixing the principle upon which the United States were prepared to act in future.[1] (Webster's Works, V. 145-46; VI. 326-28.)

The question of the Northwestern, or Oregon boundary was left unsettled, the two countries remaining in joint occupation of the disputed territory. On the general subject of the treaty: (Curtis, Life of Webster, II. 94-125; Young, Am. Statesman, 785; Benton, View, II. 420-52.)

Oregon Boundary. — By the treaty of June 15, 1846, the conflicting claims in regard to the territory west of the Rocky Mountains were settled by fixing upon the 49th parallel as the boundary between the British and United States territory. The United States had claimed the territory as far as the parallel of 54° 40′. On the other hand England had claimed the line of the Columbia river. (Treaties, 375; Young, Am. Statesman, 849-65; Benton, View, II. 667-79; Dana's Wheaton, 172-74.)

A question afterwards arose as to the position of boundary in the channel and straits which separate Vancouver's Island from the main land. By the 34th article of the treaty of Washington of 1871, the matter was referred to the Emperor of Germany, who decided, October 21, 1872, in favor of the claim of the United States Government. (Treaties, 426, 1025.)

The Annexation of Texas. — In 1823 the Mexican Government made a grant of land in Texas to Stephen Austin, who founded there the first American colony. From 1832 on, Samuel Houston, a native of Virginia, was the leading person in Texas.

On March 2, 1836, Texas declared her independence from Mexico. A constitution was formed, and a provisional government organized. Houston was made commander-in-chief of the army, and in September, President of the Republic.

Santa Anna, the President of Mexico, having marched against Houston, was defeated at San Jacinto, April 21, and captured.

1 In 1870 Parliament passed an act "providing that a British subject on becoming naturalized in a foreign state shall lose his British national character, unless he makes a declaration within two years stating his wish to remain a subject." (W. E. Hall, International Law, 191-93.)

Santa Anna signed a treaty May 14, 1836, acknowledging the independence of Texas. But this treaty was not ratified by Mexico. (Greeley, I. 147-51.)

In the United States, southern statesmen had for many years looked with longing eyes upon Texas. On receipt of the news of the battle of San Jacinto a discussion ensued upon the question of recognizing the independence of Texas. Mr. Calhoun was in favor of immediate annexation. In March, 1837, Texan independence was acknowledged. (Benton, View, I. 665-76; Young, Am. Statesman, 661-65; Von Holst, II. 548-92.)

In August, 1837, Texas made a proposal for the annexation of that country to the United States, which was declined by Mr. Van Buren. (Greeley, I. 151; Von Holst, II. 599-601.)

At the same time grievances against Mexico had been accumulating, and demands for reparation were now pressed. (Von Holst, II. 592-99; William Jay, Review of the war with Mexico, 31-52.)

For the same reason which led the slave-holders to favor the annexation of Texas, the abolitionists were opposed to it, and they coupled this subject with their petitions to Congress praying the abolition of slavery in the District of Columbia. (Von Holst, II. 601-4; Channing's Works, II. 183-260; Young, Am. Statesman, 703-12.)

In 1844 (April 12) Calhoun, who had become Secretary of State, concluded a treaty of annexation with Texas, which, however, was rejected by the Senate. (Stat. Man., III. 1423-24; Benton, View, II. 599, 600; Deb., XV. 142; Sargent, II. 218; Von Holst, II. 634-36.)

Annexation was one of the chief issues in the elections of 1844, and Tyler, assuming that the election of Polk had been an approval of annexation, strongly advised Congress to accomplish that object. (Stat. Man., III. 1377.) Von Holst believes the popular majority was against it. (II. 701.)

The next year a joint resolution was passed by Congress, and approved by the President March 2, 1845, providing for the annexation of Texas. An amendment was added at the instance of Mr. Walker of Wisconsin, to the effect that the President might, if he deemed it best, proceed by way of negotiation, instead of under the joint resolution. But the President, on the last day of his term, sent a messenger to secure the assent of Texas under the resolution. (Greeley, I. 171-74; Young, Am. Statesman, 816-28;

Benton, View, II. 631-38; Sargent, II. 259-63; Von Holst, II. 702-14.)

The Election of 1844. — The Whigs had been so demoralized by their contests with Tyler, that as early as 1842 they had lost their majority in the House of Representatives. The people were losing their interest in the old issues.

It was thought that Tyler was attempting to form a new party; but he lost the confidence of the Whigs without gaining that of the Democrats, and could draw from the old parties no following. (Benton, View, II. 629-30.) Mr. Tyler towards the end of his term adopted the "spoils system." (Sargent, II. 188-91.)

Mr. Webster finally resigned in May, 1843, and was succeeded as Secretary of State by Abel P. Upsher. In February, 1844, Upsher and Gilmer (Secretary of the Navy) were killed on the Princeton, and Calhoun became Secretary of State, and John Y. Mason, Secretary of the Navy.

In 1844 the Democrats insisted upon the acquisition of Texas, and a reduction of the tariff. The Whigs opposed annexation because of the evils of the extension of slavery; and Clay lost northern votes because he was a slave-holder. In the State of New York the votes given to Birney, had they been cast for Clay, would have given him that state and ensured his election. (See Appendix, p. 38, for the result of this election; Young, 799-814; Benton, View, II. 625-26.)

II. Administration of James K. Polk, 1845-49.

James Knox Polk was born in North Carolina in 1795 and removed to Tennessee in 1806. He studied law and was admitted to the bar in 1820.

1823-25 . . Member of the Legislature.
1825-39 . . Member of Congress.
1835-39 . . Speaker of the House.
1839 . . . . Governor of Tennessee.
1845-49 . . President.

Mr. Polk selected as his Cabinet: James Buchanan, of Pennsylvania, Secretary of State; Robert J. Walker, of Mississippi, Secretary of the Treasury; William L. Marcy, of New York, Secretary of War; George Bancroft, of Massachusetts, Secretary of the Navy; Cave Johnson, of Tennessee, Postmaster-General; and John Y. Mason, of Virginia, Attorney-General. (Von Holst, III. 1-28.)

The Spoils System was adopted by President Polk with great zeal. (Von Holst, III. 143-56.)

The 29th Congress, which met in its first session December 2, 1845, had a Democratic majority in both houses.

The Tariff of 1846. — President Polk recommended in his message the reduction of the duties to a strict revenue basis, the abolition of the minimum principle, and of specific duties. (Stat. Man., III. 1462-65.)

The President's message was sustained by the report of the Secretary of the Treasury, Mr. Walker. "The reports of Mr. Secretary Walker, says Mr. Edward Young, "may be regarded as holding the same conspicuous relation to the free-trade side of this question as that of Mr. Hamilton does to the opposite side." (Tariff Leg., 93.) In his first report (December 3, 1845), Mr. Walker lays down the following general principles:

(1) That no more money should be collected than is necessary for the wants of the Government, economically administered. (2) No duty should be imposed on any article above the lowest rate which will yield the largest amount of revenue. (3) Below such rate discrimination may be made, descending in the scale of duties. (4) The maximum revenue duty should be imposed on luxuries. (5) All minimums and all specific duties should be abolished, and *ad valorem* duties substituted in their place. (6) The duties should be so imposed as to operate as equally as possible throughout the Union, and upon the different classes. (Young, Tariff Leg., 93-95; Young, Am. Statesman, 865-71.)

In accordance with these recommendations the Committee of Ways and Means reported a bill to the House, April 14, 1846, which was passed by a vote of 114 to 94; and in the Senate by the casting vote of the Vice-President, Mr. Dallas, and became a law July 30. (Stat. at L., IX. 42; Young, Tariff Leg., 95-106; Young, Am. Statesman, 871-74.)

Under this tariff the duties were arranged in nine schedules, ranging from 100 per cent to 5 per cent ad valorem, with a small free list. The greater number of important articles were subject to duties of 20 and 30 per cent (schedules C and E), and the average rate upon dutiable articles was about 25 per cent. There was to be no credit given, but the "warehousing act" of August 6, 1846, allowed goods to remain in the warehouse for one year without payment of duties.

Tariff of 1857. — In 1857 the public debt had been nearly paid, and there was the prospect of a large surplus revenue. Accordingly it was thought necessary to reduce the duties. The act of March 3, 1857, reduced the average duty to about 20 per cent on dutiable articles, and added many articles to the free list. It passed the House, 124 to 71, and the Senate, 33 to 12. (Young, Tariff Leg., 106-14; Bishop, II. 427-28; Sumner, 54-56.)

On account of the commercial crisis of 1857, the revenue derived from duties fell below the requirements of the Government; and an agitation began for high duties, which resulted in the passage of the tariff act of March 2, 1861, after a number of the Southern States had seceded. By this act, which was only in force four months, the duties were raised about one-third.

The subsequent tariff acts were war measures. (Young, Tariff Leg., 114-21; Sumner, 56.)

"The period from 1846 to 1860," says Mr. Sumner (p. 54), "was our period of comparative free trade. . . . . It was a period of very great and very solid prosperity. . . . . The manufactures did not perish, [nor did they] gain sudden and exorbitant profits. They made steady and genuine progress."

The increase in the value of manufactures during the ten years from 1850 to 1860 is estimated by Mr. J. Leander Bishop (History of American Manufactures, II. 483-503) at over 86 per cent. The increase in particular branches is as follows:

Agricultural implements	160.1	per cent
Pig iron	44.4	" "
Bar and rolled iron	39.5	" "
Production of iron foundries	42	" "
Cotton goods	76	" "
Woolen goods	51	" "
Leather goods	67	" "
Malt liquors	175	" "
Jewelry and watches	64	" "

The Sub-Treasury. — The failure to pass the bank bills of 1842 left the Government without a fiscal agent, and the state banks were again resorted to. In 1846 the Democrats re-established the Sub-Treasury, August 6, 1846. (Stat. at L., IX. 59.)

The mint at Philadelphia and the branch mint at New Orleans were made places of deposit, and sub-treasuries established at New York, Boston, Charleston, and St. Louis, with an assistant treasurer for each.

By this act all taxes and other moneys accruing to the United States "shall be paid in *gold and silver coin* only, or in *treasury notes* issued under the authority of the United States; and all disbursements on account of the United States shall be paid in gold and silver coin, or in treasury notes *if the creditor agree to receive*" them. This act is still in force. (Revised Stat., Sections 3591-95.)

The act of February 25, 1863, provided for the establishment of National Banks which should issue a national currency secured by the deposit, with the Treasurer of the United States, of Government bonds. (Stat. at L., XII. 665; Young, Am. Statesman, 874; Benton, View, II. 726; Deb., XV. 442, 631.)

For a brief sketch of the financial history of the United States from 1850 to 1860 see Sumner, History of Am. Currency, 169-94.)

The Mexican War.—Texas accepted, July 4, 1845, the proposal of annexation. In December of that year General Taylor was ordered to occupy Texas with his troops, and in January, 1846, to advance to the Rio Grande. Mexico considered this an invasion of her territory, and ordered an army to cross the Rio Grande. On the 24th of April, 1846, occurred the first conflict of arms, in which sixteen Americans were killed.

May 11 Congress received from the President a message (Stat. Man., III. 1485-90), "announcing a state of war," which he said had been commenced by Mexico, who had invaded our territory, and shed the blood of our fellow-citizens *on our own soil.*

A bill providing for an army (50,000) and appropriating $10,000,000, was immediately reported and passed the House, 142 to 14, and the Senate (the next day), 40 to 2; and on the 13th the President issued a war proclamation.

The vote on the passage of the bill was not an exact expression of the sentiment of either House on the general question of the war, but only as to the course to be pursued under the existing circumstances. A large number of the Whigs believed the war to be unjust on the part of the United States; and the President's method of beginning it unconstitutional. It was objected that a state of war did not exist; and if it did exist, it was not by the act of Mexico. This last objection depended upon the question whether the Rio Grande or the Nueces was the southwestern boundary of Texas. (Young, Am. Statesman, 833-49; Greeley, I. 185-87; Benton, View, II. 677-79; Jay, Review of the Mexican War, 121-43; Von Holst, III. 79-115, 216-55.)

The war once begun, the following plan of operations against Mexico was adopted: An army of the West, under Colonel S. W. Kearney, was to march from Fort Leavenworth against New Mexico, and then west to California; an army of the centre, under General Wool, was to invade Coahuila and Chihuahua; but the main column, under General Taylor, was to penetrate into the interior and reach the City of Mexico if possible.

The fleet was to co-operate on the Pacific coast with Colonel John C. Fremont (in charge of an exploring expedition) in the occupation of California.

This plan was carried out in the main. Taylor advanced and fought several important battles; but this line of invasion was thought too difficult, and Taylor was virtually superseded by General Scott, who landed with an army at Vera Cruz, and marched directly upon the capital; and after a number of brilliant victories occupied the City of Mexico, September 14, 1847.

From May to August Fremont and others got possession of California. New Mexico fell into the hands of Kearney August 18.

The expedition under General Wool accomplished little of importance.

The best complete history of the Mexican War is that of R. S. Ripley. There is also a history of the war by Brooks; a review of the war by William Jay; "War with Mexico reviewed," by Livermore; a Mexican history of the war, translated by A. C. Ramsey; of general histories the following give brief accounts: Bryant and Gay, IV. 369-86; Cassel's History of the United States, III. 63-76; Spencer's History of the United States, III. 425-470, containing text of the treaty; Young, Am. Statesman, 816-36; Von Holst, III.; for special questions connected with the war, Von Holst, Vol. III.

A treaty of peace was concluded February 2, 1848, at Guadalupe, Hidalgo by N. P. Trist. (United States Treaties, 562, 1047-48; Benton, View, II. 709-11.)

By this treaty Mexico not only yielded her claim to Texas, but ceded besides a large part of her territory in the North — California and New Mexico. The acquisition of territory, including Texas (376,163 square miles), amounted to 921,916 square miles.

The boundary was as follows: The Rio Grande to the southern boundary of New Mexico; thence along that boundary to its western termination; thence north to the first branch of the river

Gila; thence down said branch and said river until it empties into the Rio Colorado; thence across that river, following the division line between Upper and Lower California, to the Pacific Ocean.

In consideration of this cession of territory the United States were to pay to Mexico the sum of $15,000,000; also the claims of United States citizens against Mexico, about $5,000,000.

On account of difficulties in fixing the boundary, the United States purchased from Mexico in 1853 the Mesilla valley, lying south of the Gila (the Gadsden Purchase), and comprising 45,535 square miles of territory. The sum paid was $10,000,000. (Treaties, 575, 1048; Spencer, III. 501.)

The Clayton-Bulwer Treaty. — "The acquisition of California, the easiest approaches to which, at that time, were through the various isthmus passages from Tehuantepec to Darien, raised new questions with Great Britain." (Treaties, 1025.) England laid claim to the eastern coast of Nicaragua, occupied by the Mosquito Indians, which was considered to be the best position for the eastern terminus of an isthmus canal. In view of this circumstance, the United States hastened to contract a treaty with England (April 19, 1850), stipulating for a joint protectorate over any canal that should be made across the isthmus. (Treaties, 377, 1026; Stat. Man., IV. 1737; Dana's Wheaton, 105, note; Congressional Globe, 34th Congress, 107, 283-5, 663, 1205-7, 1419-22; also the official correspondence of Secretary Blaine, 1881.)

Miscellaneous. — (1) In August, 1845, the United States Naval Academy was established at Annapolis, Maryland, by George Bancroft, Secretary of the Navy. (J. R. Soley, History of the Naval Academy, 51-61.)

(2) In 1849 (March 2) the Department of the Interior was established. To this department were transferred from other departments: The Patent Office and the Census Bureau, from the State department; The Land Office, and accounts of Marshalls, etc., from the Treasury Department; Indian affairs, from the War Department; and the Pension Bureau, from the Navy Department. (Stat. at L., IX. 395.)

The Election of 1848. — In the North a large class of people saw in the Mexican war a movement for the extension of slave territory. The "Wilmot Proviso" of 1846 was a protest against this. (Greeley, I. 189; Benton, View, II. 694.)

As the Whigs would not make the extension of slavery a party issue, a new party was formed in 1848 under the name of "Free

Soil" party, with whom the Liberty party coalesced. Their candidates were Van Buren and Charles Francis Adams.

The Democratic party was somewhat divided on the question of slavery, and hence lost the election. (Appendix, p. 38.)

The divisions of the Democratic party caused the election, to the United States Senate, of William H. Seward, of New York, and Salmon P. Chase, of Ohio, and later, Charles Sumner, from Massachusetts, all of the Free Soil party. These men, with others already in the House, attacked slavery with increased energy, and forced on the "irrepressible conflict."

III. Administrations of Taylor, Fillmore, Peirce, and Buchanan, 1849-61.

ZACHARY TAYLOR, elected as a military hero, proclaimed the Whig policy of harmony. His Cabinet was weak, containing only a few men of note. Among others were: J. M. Clayton, Thomas Ewing, and Reverdy Johnson.

The period from 1849 to 1860, although quiet and prosperous in other respects, was one of a continual struggle about the extension of slavery. It had been gathering head since 1835. It broke out on the question of Clay's compromise of 1850, intended to settle all points in dispute in regard to slavery. (Young, Am. Statesman, 894-95; Greeley, I. 203.)

The compromise measures, after a long debate, were finally passed as separate bills, August, 1850: (1) For the organization of Utah and New Mexico into territories without reference to slavery; (2) for the admission of California as a free state; (3) for the payment to Texas of $10,000,000 for her claim to New Mexico; (4) for the return of persons escaping from the service of their masters (the famous fugitive-slave act); (5) abolishing the slave trade in the District of Columbia. (Houghton, 24; Young, 892-937; Von Holst, III. 456-562; Benton, View, II. 749, 768-80; Bryant and Gay, IV. 387-401.)

The northern Whigs who assisted in passing these measures, and particularly Mr. Webster, were much censured for the part they took. In his famous 7th of March speech, Webster was thought to have yielded those principles, in the struggle for which he had been the great champion of the North. (Webster's Works, V. 334; Mr. Curtis vindicates the course of Mr. Webster, Life, II. 381-450; Von Holst, III. 497-508.)

Webster, Clay, and Calhoun disappeared from the political scene soon after this conflict, and a new race of statesmen took their places.

General Taylor died July 9, 1850, and Fillmore became President, and like Tyler, disappointed the Whigs. After the election of 1852, the Whigs ceased to exist as a party, and the members joined other parties. The greater number went to form the new Republican party, organized in 1854, based on the non-extension of slavery. But the South, with aid from the North, were still strong enough to elect their candidate. And in 1860, when Lincoln, the candidate of the Republican party, was elected, the South seceded from the Union. (Appendix, p. 38; Houghton, 25-27.)

Some of the more important events of this period are the following:

(1) The repeal of the Missouri Compromise, May 30, 1854, in connection with the act to organize the territorial government of Kansas and Nebraska. (Young, 937-62; Greeley, I. 210-50; Wilson, I. 360-477; Sargent, II. 357-98.)

The struggle was transferred from Congress to the new territories, and civil war raged there for a time between the pro-slavery and free-state settlers.

(2) The Dred Scott decision by the Supreme Court, March 4, 1857. (Greeley, I. 252-64; Tyler, Life of Taney, 359-438; Bryant and Gay, IV. 425.) For general histories of this period see: Bryant and Gay, IV. 387-434; Cassell, III. 82-206; Greeley, I. 198-327.)

Literature of the Period 1789 to 1860.[1]

General Histories: Hildreth, second series, 3 Vols., 1789-1820 (Federalist); Schouler, 2 Vols., 1789-1817 (Anti-Federalist); Tucker, 4 Vols., 1776-1841 (the view of a Virginian, but quite impartial); Von Holst, 3 Vols., 1789-1850 (the criticism of a foreigner; valuable in references); Young, A. W., "The American Statesman," a political history from 1776-1854; Bryant and Gay, Vol. IV. (a popular history); Spencer, Vols. II. and III., 1776-1857 (a careful compilation).

Special Histories and Biographies: Gibbs, "Administrations of Washington and Adams"; The lives and works of the leading statesmen: Benton, "Thirty Years in the United States Senate," 2 Vols., 1820-1850; Sargent, "Public Men and Events," 2 Vols., 1817-1853; Niles' "Weekly Register," 50 Vols., 1811-36; Cooper (Thomas V.), "American Politics," is a valuable collection, containing a History of Political Parties; Party Platforms; Jefferson's Manual; the existing Political Laws; the Federal Blue Book; and nearly 100 tables of statistics.

Military and Naval: Cooper (J. F.), History of the American Navy; Ingersoll (C. J.), History of the War of 1812; Ripley (R. S.), History of the Mexican War.

Political Parties: Cooper, "American Politics," Books I.-II.; Houghton, "Conspectus of Parties"; Holmes, "Parties and their Principles."

Finances: "History of National Loans," Cooper, Am. Politics, Book I. p. 245 and Book VII.; Bolles, "Financial History of the United States," since 1789 (in preparation).

Foreign Relations: American State Papers (Folio Edition), I.-VI., 1789-1828; Wait's State Papers to 1817; United States Treaties.

Laws of Congress: United States Statutes at Large; Revised Statutes, (1878); Brightley's Digest, 1789-1869.)

The Debates of Congress: The Annals of Congress, 42 Vols., 1789-1824; the "Register of Debates," 29 Vols., 1824-37; the "Congressional Globe," 1833-72; the "Congressional Record" since 1872; Benton's Abridgement of the Debates, 15 Vols., 1789-1850 (the most useful).

Constitutional Law: The Commentaries of Story and Kent; and Cooley's "Constitutional Law."

More special references will be found in connection with the various subjects mentioned.

See also "The Manual of Historical Literature," by C. K. Adams.

---

[1] For the literature of the introductory period see pages 5, 9, and 12.

APPENDIX.

DECLARATION OF INDEPENDENCE.

A DECLARATION by the Representatives of the United States of America, in Congress assembled.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature, and of nature's God, entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments, long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves, by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these

Colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature: a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses, repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us, without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring Province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it, at once, an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us, in all cases whatsoever.

He has abdicted government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions, we have petitioned for

redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the World, for the rectitude of our intentions, do, in the name, and by authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, FREE AND INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

ARTICLES OF CONFEDERATION

And perpetual union, between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I.

The style of this confederacy shall be, "THE UNITED STATES OF AMERICA."

ARTICLE II.

Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction and right, which is not, by this Confederation, expressly delegated to the United States in Congress assembled.

ARTICLE III.

The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon, them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV.

The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State; and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided, that such restriction shall not extend so far as to prevent the removal of property imported into any State, to any other State

of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor, in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up, and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings, of the courts and magistrates of every other State.

ARTICLE V.

For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven, members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned, in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonment, during the time of their going to, and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ARTICLE VI.

No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy

from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person, holding any office of profit, or trust, under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into, by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties, already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up, in time of peace, by any State, except such number only, as shall be deemed necessary, by the United States in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred; and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war, without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ship or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled; and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as

shall be established by the United States in Congress assembled; unless such State be infested by pirates, in which vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ARTICLE VII.

When land forces are raised by any State for the common defence, all officers of, or under, the rank of colonel, shall be appointed by the legislature of each State, respectively, by whom such forces shall be raised, or in such manner as such State shall direct; and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII.

All charges of war, and all other expenses that shall be incurred for the common defence, or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint. The taxes for paying that proportion, shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States in Congress assembled.

ARTICLE IX.

The United States in Congress assembled, shall have the sole and exclusive right and power, of determining on peace and war, except in the cases, mentioned in the sixth article: Of sending and receiving ambassadors: Entering into treaties and alliances; provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever: Of establishing rules for deciding, in all cases, what captures on land or water shall be legal; and in what manner prizes, taken by land or naval forces, in the service of the United States, shall be divided or

appropriated: Of granting letters of marque and reprisal in times of peace: Appointing courts for the trial of piracies and felonies, committed on the high seas; and establishing courts, for receiving and determining, finally, appeals in all cases of captures; provided, that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort, on appeal, in all disputes and differences now subsisting, or that hereafter may arise, between two or more States, concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent, of any State, in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given, by order of Congress, to the legislative or executive authority of the other State in controversy; and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges, to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons, out of each of the United States; and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number, not less than seven, nor more than nine, names, as Congress shall direct, shall, in the presence of Congress, be drawn out, by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination. And if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State; and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive. And if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall, nevertheless, proceed to pronounce sentence or judgment, which shall in like manner be final and

decisive; the judgment, or sentence, and other proceedings, being, in either case, transmitted to Congress, and lodged among the acts of Congress, for the security of the parties concerned: Provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State, where the cause shall be tried, 'Well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward': Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States: Fixing the standard of weights and measures throughout the United States; Regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated: Establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office: Appointing all officers of the land forces in the service of the United States, excepting regimental officers: Appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States: Making rules for the government and regulation of the land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated A COMMITTEE OF THE STATES, and to consist of one delegate from each State; and to appoint such other committees

and civil officers as may be necessary for managing the general affairs of the United States under their direction: To appoint one of their number to preside; provided, that no person be allowed to serve in the office of President more than one year in any term of three years. To ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses: To borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted: To build and equip a navy: To agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldierlike manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on, by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than its quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such State; unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on, by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the numbers of vessels of war to be built or purchased, or the number of land or sea

forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ARTICLE X.

The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine States, in the Congress of the United States assembled, is requisite.

ARTICLE XI.

Canada, acceding to this Confederation, and joining in the measures of the United States, shall be admitted into and entitled to all the advantages of this Union; but no other colony shall be admitted into the same unless such admission be agreed to by nine States.

ARTICLE XII.

All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the

United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE XIII.

Every State shall abide by the determinations of the United States in Congress assembled, on all questions which, by this Confederation, are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State; and the Union shall be perpetual. Nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to, in a Congress of the United States, and be afterward confirmed by the legislatures of every State.

And whereas, it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify, the said Articles of Confederation and Perpetual Union:

Know Ye, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name, and in behalf, of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which, by the said Confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent; and that the Union shall be perpetual.

In witness whereof, we have hereunto set our hands in Congress.

Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the Independence of America.

CONSTITUTION OF THE UNITED STATES OF AMERICA.

We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1.

1. All Legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Section 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty

thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECTION 3.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or

affirmation. When the President of the United States is tried, the Chief Justice shall preside, and no person shall be convicted without the concurreuee of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualifieation to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment. trial, judgment, and punishment, according to law.

Section 4.

1. The times, places, and manner, of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of ehoosing Senators.

2. The Congress shall assemble at least onee in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.

1. Eaeh House shall be the judge of the eleetions, returns, and qualifications, of its own members, and a majority of each shall eonstitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to eompel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

2. Eaeh House may determine the rnles of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may in their judgment, require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of

the Treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person, holding any office under the United States, shall be a member of either House during his continuance in office.

SECTION 7.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large in their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House, respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolutions or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take

effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8.

The Congress shall have power,—

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States:

2. To borrow money on the credit of the United States:

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

7. To establish post-offices and post-roads:

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

16. To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress:

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places, purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: And,—

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SECTION 9.

1. The migration or importation of such persons, as any of the States, now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed.

4. No capitation or other direct tax, shall be laid, unless in proportion to the census or enumeration, hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue, to the ports of one State over those of another, nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties, in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law, and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person, holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECTION 10.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1.

1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:—

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

Clause 3 has been superseded by the XIIth Article of Amendments, given under head of Amendments.

[3. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States.

directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the Representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.]

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and

he shall not receive within that period any other emolument from the United States or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :—

"I do solemnly swear (or affirm), that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend, the Constitution of the United States.

SECTION 2.

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

3. The President shall have power to fill up all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION 3.

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either or them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4.

The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1.

The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2.

2. The Judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

2. In all cases affecting embassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place, or places, as the Congress may by law have directed.

SECTION 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4.

The United States shall guarantee to every State in this Union a republican form of Government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing Amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no Amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive

and judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the Convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No persons shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand

jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

DECISIONS OF THE SUPREME COURT ON CONSTITUTIONAL QUESTIONS.

(MARSHALL'S WRITINGS.)

Marbury v. *Madison* (*1803*), *page 1.*

WHEN a commission has been signed by the President, the appointment of the officer commissioned is made; and the commission is complete when the seal of the United States has been affixed by the Secretary of State. To withhold a commission thus complete is a violation of a vested legal right.

The Supreme Court of the United States has no authority to issue a writ of *mandamus*, commanding the Secretary of State to deliver a paper; original jurisdiction in such cases not having been given by the Constitution, and the Act of Congress, conferring that authority on this Court, not being constitutional.

A law repugnant to the Constitution is void.

Bollman and Swartwout (*1807*), *p. 33.*

The Supreme Court may grant a writ of habeus corpus in order to examine into the cause of a commitment made by another court having power to commit and to bail.

Definition of Treason, in the sense of the Constitution.

Sturges v. *Crowninshield* (*1819*), *page 147.*

A State may pass a bankrupt or insolvent law, provided such law does not "impair the obligation of contracts." The power given to Congress by the Constitution of the United States, "to establish uniform laws on the subject of bankruptcies," does not, until Congress exercises that power, take from the States the right to pass bankrupt laws.

The insolvent act of New York (passed April 3, 1811), so far as it attempts to discharge a debtor from liabilities incurred prior to its enactment, is contrary to the Constitution of the United States.

M'Culloch v. *the State of Maryland* (*1819*), *p. 160.*

The Constitution of the United States, and the laws made in pursuance thereof, are supreme; they control the constitutions and the laws of the respective states, and cannot be controlled by them.

The Act of Congress (passed 1816), incorporating the Bank of the United States, is a law made in pursuance of the Constitution, and is a part of the supreme law of the land.

The states have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operation of the constitutional laws enacted by Congress to carry into execution the powers of the general government.

A law passed by the legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.

Trustees of Dartmouth College v. *Woodward* (*1819*), *p. 188.*

The act incorporating the trustees of Dartmouth College, and the acceptance of that act, or charter, by the persons incorporated, constitute a *contract* within the meaning of the Constitution of the United States.

The acts of the legislature of New Hampshire, increasing the number of the trnstees of that college, and taking from them the right of filling vacancies in their own number, impaired the obligation of this contract, and, therefore, were unconstitutional and void.

Gibbons v. *Ogden* (*1824*), *page 287.*

The Constitution of the United States contains an enumeration of the powers expressly granted by the people to their government. There is no known rule which requires that these powers should be construed *strictly*. The words of the Constitution are to be construed in their *natural* sense.

"Congress shall have power to regulate *commerce*." The word *commerce* here comprehends *navigation*.

Carrying passengers is a part of the coasting business; and vessels licensed as coasting vessels may be employed in carrying passengers.

A steamboat may be licensed pursuant to an Act of Congress "for the enrolling and licensing of steamboats"; and an act of a

state, inhibiting the use of steam to any vessel having license, comes in direct collision with that act, and, of course, is void.

Brown v. *the State of Maryland* (*1827*), *p. 358.*

The act of the legislature of Maryland requiring importers of foreign articles, before selling the same, to take out a license, is repugnant to that article of the Constitution of the United States which declares that "no State shall lay any imposts, or duties, on imports or exports"; and also to that clause in the Constitution which empowers Congress "to regulate commerce with foreign nations, and among the several states."

The Cherokee Nation v. *the State of Georgia* (*1831*) *p. 412.*

An Indian tribe or nation within the United States is not a foreign state in the sense in which that term is used in the Constitution, and cannot maintain an action in the courts of the United States.

Worcester v. *the State of Georgia* (*1832*), *p. 419.*

The Act of the legislature of Georgia, prohibiting white persons to reside within the limits of the Cherokee nation without a license, and having taken an oath of a prescribed form, is repugnant to the treaties made between the United States and the Cherokees, as well as the Acts of Congress for giving effect to those treaties, and for regulating the intercourse of the citizens of the United States with the Cherokees, and therefore void; and the judgment against the plaintiff in error, on the trial of an indictment under this act, is a nullity, it having been pronounced under color of law which is repugnant to the Constitution, laws, and treaties of the United States.

The mere passing of this act was an assertion of a claim, on the part of Georgia, to jurisdiction over the Cherokee Nation. But the Cherokee Nation is a distinct community occupying its own territory, in which the laws of Georgia can have no force.

Hylton v. *the United States* (*1796*), *p. 480.*

The Act of Congress, passed in 1794, laying a duty on carriages for the conveyance of persons, was a constitutional act. The duty was not a *direct* tax.

Anderson v. *Dunn* (*1821*), *p. 603.*

The United States House of Representatives has authority to punish, for contempt, persons who are not members of that house.

Martin v. *Mott* (*1827*), *p. 611.*

The Constitution of the United States declares that Congress shall have power "to provide for calling forth the militia," etc. The Act of Congress of 1795 provides that it shall be lawful for the President of the United States to call forth the militia, etc., in certain specified cases.

The Act of Congress of 1795 is constitutional. The President has the sole authority to decide whether or not the exigency has arisen which justifies his calling out the militia.

The officer appointing a court martial for the trial of a militia man who has disobeyed the call of the President, has a discretionary authority as to the number of which the court shall consist, and in this matter he is to proceed according to the general usage of military service. The jurisdiction of a court martial to try such offences does not depend upon the fact of war or peace.

THE STATES AND TERRITORIES — WHEN ADMITTED OR ORGANIZED — WITH AREA AND POPULATION.

STATES. [First thirteen admitted on ratifying Constitution—all others admitted by Acts of Congress.]	Date when admitted	Area in squ're miles at time of admission.	Population nearest census to date of admission.	
			Population.	Year.
Delaware	December 7, 1787	2,050	59,096	1790
Pennsylvania	December 12, 1787	45,215	434,373	1790
New Jersey	December 18, 1787	7,815	184,139	1790
Georgia	January 2, 1788	59,475	82,548	1790
Connecticut	January 9, 1788	4,990	237,496	1790
Massachusetts	February 6, 1788	8,315	378,787	1790
Maryland	April 28, 1788	12,210	319,728	1790
South Carolina	May 23, 1788	30,570	249,033	1790
New Hampshire	June 21, 1788	9,305	141,885	1790
Virginia	June 25, 1788	42,450	747,610	1790
New York	July 26, 1788	49,170	340,120	1790
North Carolina	November 21, 1789	52,250	393,751	1790
Rhode Island	May 29, 1790	1,250	68,825	1790
Vermont	March 4, 1791	9,565	85,339	1791
Kentucky	June 1, 1792	40,400	73,077	1792
Tennessee	June 1, 1796	42,050	77,202	1796
Ohio	November 29, 1802	41,060	41,915	1802
Louisiana	April 30, 1812	48,720	76,556	1812
Indiana	December 11, 1816	36,350	63,805	1816
Mississippi	December 10, 1817	46,810	75,512	1817
Illinois	December 3, 1818	56,650	34,620	1818
Alabama	December 14, 1819	52,250	127,901	1820
Maine	March 15, 1820	33,040	298,269	1820
Missouri	August 19, 1821	69,415	66,586	1821
Arkansas	June 15, 1836	53,850	52,240	1836
Michigan	January 26, 1837	58,915	212,267	1840
Florida	March 3, 1845	58,680	54,477	1845
Iowa	December 28, 1846	56,025	81,920	1846
Texas	December 29, 1845	265,780	212,592	1850
Wisconsin	May 29, 1848	56,040	305,391	1850
California	September 9, 1850	158,360	92,597	1850
Minnesota	May 11, 1858	83,365	172,023	1860
Oregon	February 14, 1859	96,030	52,465	1859
Kansas	January 29, 1861	82,080	107,206	1860
West Virginia	June 19, 1863	24,780	442,014	1870
Nevada	October 31, 1864	110,700	40,000	1864
Nebraska	March 1, 1867	76,855	60,000	1867
Colorado	August 1, 1876	103,925	150,000	1876

TERRITORIES.	Dates of organizat'n	Present area, square miles.	Population.	Census of
Utah	September 9, 1850	82,090	143,963	1880
New Mexico	September 9, 1850	122,580	119,565	1880
Washington	March 2, 1853	69,180	75,116	1880
Dakota	March 2, 1861	149,100	135,177	1880
Arizona	February 24, 1863	113,020	40,440	1880
Idaho	March 3, 1863	84,800	32,610	1880
Montana	May 26, 1864	146,080	39,159	1880
Wyoming	July 25, 1868	97,890	20,789	1880
Indian	. . . . .	64,690	. . . .	. .
Alaska	. . . . .	Unsurveyed	. . . .	. .

STATEMENT of Outstanding Principal of the Public Debt of the United States on the 1st of January of each year from 1791 to 1843, inclusive, and on the 1st of July of each year from 1844 to 1881, inclusive.

Year.	Amount.	Year.	Amount.
Jan. 1, 1791	$75,463,476 52	Jan. 1, 1837	336,957 83
1792	77,227,924 66	1838	3,308,124 07
1793	80,352,634 04	1839	10,434,221 14
1794	78,427,404 77	1840	3,573,343 82
1795	80,747,587 39	1841	5,250,875 54
1796	83,762,172 07	1842	13,594,480 73
1797	82,064,479 33	1843	20,601,226 28
1798	79,228,529 12	July 1, 1843	32,742,922 00
1799	78,408,669 77	1844	23,461,652 50
1800	82,976,294 35	1845	15,925,303 01
1801	83,038,050 80	1846	15,550,202 97
1802	80,712,632 25	1847	38,826,534 77
1803	77,054,686 30	1848	47,044,862 23
1804	86,427,120 88	1849	63,061,858 69
1805	82,312,150 50	1850	63,452,773 55
1806	75,723,270 66	1851	68,304,796 02
1807	69,218,398 64	1852	66,199,341 71
1808	65,196,317 97	1853	59,803,117 70
1809	57,023,192 09	1854	42,242,222 42
1810	53,173,217 52	1855	35,586,956 56
1811	48,005,587 76	1856	31,972,537 90
1812	45,209,737 90	1857	28,699,831 85
1813	55,962,827 57	1858	44,911,881 03
1814	81,487,846 24	1859	58,496,837 88
1815	99,833,660 15	1860	64,842,287 88
1816	127,334,933 74	1861	90,580,873 72
1817	123,491,965 16	1862	524,176,412 13
1818	103,466,633 83	1863	1,119,772,138 63
1819	95,529,648 28	1864	1,815,784,370 57
1820	91,015,566 15	1865	2,680,647,869 74
1821	89,987,427 66	1866	2,773,236,173 69
1822	93,546,676 98	1867	2,678,126,103 87
1823	90,875,877 28	1868	2,611,687,851 19
1824	90,269,777 77	1869	2,588,452,213 94
1825	83,788,432 71	1870	2,480,672,427 81
1826	81,054,059 99	1871	2,353,211,332 32
1827	73,987,357 20	1872	2,253,251,328 78
1828	67,475,043 87	1873	*2,234,482,993 20
1829	58,421,413 67	1874	*2,251,690,468 43
1830	48,565,406 50	1875	*2,232,284,531 95
1831	39,123,191 68	1876	*2,180,395,067 15
1832	24,322,235 18	1877	*2,205,301,392 10
1833	7,001,698 83	1878	*2,256,205,892 53
1834	4,760,082 18	1879	*2,349,567,482 04
1835	37,733 25	1880	*2,120,415,370 63
1836	37,513 05	1881	*2,069,013,569 58

* In the amount here stated as the outstanding principal of the public debt are included the certificates of deposit outstanding on the 30th of June, issued under act of June 8, 1872, for which a like amount in United States notes was on special deposit in the Treasury for their redemption, and added to the cash balance in the Treasury. These certificates as a matter of accounts, are treated as a part of the public debt, but, being offset by notes held on deposit for their redemption, should properly be deducted from the principal of the public debt in making comparison with former years.

SUMMARY OF POPULAR AND ELECTORAL VOTES IN PRESIDENTIAL ELECTIONS, 1789-1880.

Year.	No. of States.	Total Elect'l Vote.	Party.	Candidates.	States.	Popular Vote.	Elect'l Vote.
1789	10	73		George Washington.			69
				John Adams.			34
				John Jay.			9
				R. R. Harrison.			6
				John Rutledge.			6
				John Hancock.			4
				George Clinton.			3
				Samuel Huntington.			2
				John Milton.			2
				Benjamin Lincoln.			1
				James Armstrong.			1
				Edward Telfair.			1
				Vacancies.			4
1792	15	135	Federalist.	George Washington.			132
			Federalist.	John Adams.			77
			Republican.	George Clinton.			50
			Republican.	Thomas Jefferson.			4
			Republican.	Aaron Burr.			1
				Vacancies.			3
1796	16	138	Federalist.	John Adams.			71
			Republican.	Thomas Jefferson.			68
			Federalist.	Thomas Pinckney.			59
			Republican.	Aaron Burr			30
				Scattering.			48
1800	16	138	Republican.	Thomas Jefferson.			73
			Republican.	Aaron Burr.			73
			Federalist.	John Adams.			65
			Federalist.	Charles C. Pinckney.			64
			Federalist.	John Jay.			1

Year.	Number of States.	Total Elect. Vote.	Party.	For President.	States.	Popular Vote.	Elect. Vote.	For Vice-President.	Elect. Vote.
1804	21	176	Repub'can.	Thomas Jefferson.	15		162	George Clinton.	162
			Federalist.	Chas. C. Pinckney.	2		14	Rufus King.	14
1808	17	176	Repub'can.	James Madison.	12		122	George Clinton.	113
			Repub'can.	George Clinton.			6	James Madison.	3
			Federalist.	Chas. C. Pinckney.	5		47	Rufus King.	47
								John Langdon.	9
								James Munroe.	3
				Vacancy.			1		1
1812	18	218	Repub'can.	James Madison.	11		128	Elbridge Gerry.	131
			Federalist.	De Witt Clinton.	7		89	Jared Ingersoll.	86
				Vacancy.			1		1
1816	19	221	Repub'can.	James Monroe	16		183	D. D. Tompkins.	183
			Federalist.	Rufus King.	3		34	John E. Howard.	22
								Scattering.	16
				Vacancies.			4		
1820	24	235	Repub'can.	James Munroe.	24		231	D. D. Tompkins.	218
				John Q. Adams.			1	Rich. Stockton.	8
								Daniel Rodney.	4
								Robt. G. Harper.	1
								Richard Rush.	1
				Vacancies.			3		3
1824	24	261	Repub'can.	Andrew Jackson.	10	155,872	99	John C. Calhoun.	182
			Repub'can.	John Q. Adams.	8	105,321	84	Nathan Sanford.	30
			Repub'can.	Wm. H. Crawford.	3	44,282	41	Nathaniel Macon.	24
			Repub'can.	Henry Clay.	3	46,587	37	Andrew Jackson.	13
								M. Van Buren.	9
								Henry Clay.	2
				Vacancy.					1
1828	24	261	Democratic.	Andrew Jackson.	15	647,231	178	John C. Calhoun.	171
			Nat. Rep.	John Q. Adams.	9	509,097	83	Richard Rush.	83
								William Smith.	7

SUMMARY OF POPULAR AND ELECTORAL VOTES (*Continued*).

Year.	Number of States.	Total Elect. Vote.	Party.	For President.	States.	Popular Vote.	Elect. Vote.	For Vice-President.	Elect. Vote.
1832	24	288	Democratic	Andrew Jackson.	15	687,502	219	M. Van Buren.	189
			Nat. Repub.	Henry Clay.	7	530,189	49	John Sergeant.	49
			Anti-Mason.	William Wirt.	1	33,108	7	Amos Ellmaker.	7
				John Floyd.	1		11	Henry Lee.	11
								William Wilkins.	30
				Vacancies.			2		2
1836	26	294	Democratic.	Martin Van Buren.	15	761,549	170	R. M. Johnson.	147
			Whig.	Wm. H. Harrison.	7		73	Francis Granger.	77
								Others.	70
				Scattering.	4				
1840	26	294	Whig.	Wm. H. Harrison.	19	1 275,017	243	John Tyler.	234
			Democratic.	Martin Van Buren.	7	1 128,702	60	R. M. Johnson.	48
			Liberty.	James G. Birney.		7,059			
								E. W. Tazewell.	11
								James K. Polk.	1
1844	26	275	Democratic.	James K. Polk.	15	1 337,243	170	Geo. M. Dallas.	170
			Whig.	Henry Clay.	11	1 299,068	105	T. Frelinghuysen.	105
			Liberty.	James G. Birney.		62,300			
1848	30	290	Whig.	Zachary Taylor.	15	1 360,101	163	Millard Fillmore.	163
			Democratic.	Lewis Cass.	15	1 220,044	127	Wm. O. Butler.	127
			Free Soil.	Martin Van Buren.		291,263		Chas. F. Adams.	
1852	31	296	Democratic.	Franklin Pierce.	27	1 601,474	254	Wm. R. King.	254
			Whig.	Winfield Scott.	4	1 386,578	42	Wm. A. Graham.	42
			Free Dem.	John P. Hale.		156,149		Geo. W. Julian.	
1856	31	296	Democratic.	James Buchanan.	19	1 838,169	174	J. C. Breckinridge.	174
			Republican.	John C. Fremont.	11	1 341,264	114	Wm. L. Dayton.	114
			American.	Millard Fillmore.	1	874,534	8	A. J. Donelson.	8
1860	33	303	Republican.	Abraham Lincoln.	17	1 866,352	180	Hannibal Hamlin.	180
			Democratic.	J. C. Breckinridge.	11	845,763	72	Joseph Lane.	72
			Democratic.	S. A. Douglas.	2	1 375,157	12	H. V. Johnson.	12
			"Const. Un."	John Bell.	3	589,581	39	Edward Everett.	39
1864	36	314	Republican.	Abraham Lincoln.	22	2 216,067	212	Andrew Johnson.	212
			Democratic.	Geo. B. McClellan.	3	1 808,725	21	Geo. H. Pendleton.	21
				Vacancies.*	11		81		81
1868	37	317	Republican.	Ulysses S. Grant.	26	3 015,071	214	Schuyler Colfax.	214
			Democratic.	Horatio Seymour.	8	2 709,613	80	F. P. Blair, Jr.	80
				Vacancies.†	3		23		23
1872	37	366	Republican.	Ulysses S. Grant.	31	3 597,070	286	Henry Wilson.	286
			D. & Lib. R.	Horace Greeley.	6	2 834,079		B. Gratz Brown.	47
			Democratic.	Chas. O'Conor.		29,408		John Q. Adams.	
			Temperance.	James Black.		5,608		A. H. Colquite.	5
				Scattering.			63	Scattering.	14
				Not counted.‡			17		
1876	38	369	Republican.	R. B. Hayes.	21	4 033,950	185	Wm. A. Wheeler.	185
			Democratic.	S. J. Tilden.	17	4 284,885	184	T. A. Hendricks.	184
			'Greenback.'	Peter Cooper.		81,740		S. F. Cary.	
			'Prohibition.'	Green C. Smith.		9,522		R. T. Stewart.	
1880	38	369	Republican.	James A. Garfield.	19	4 442,950	214	Chester A. Arthur.	214
			Democratic.	W. S. Hancock.	19	4 442,035	155	Wm. H. English.	155
			'Greenback.'	James B. Weaver.		306,867		B. J. Chambers.	
				Scattering.		12,576			

* Not voting—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

† Not voting—Mississippi, Texas, and Virginia.

‡ Seventeen votes rejected, viz.: 3 from Georgia for Horace Greeley (dead), and 8 from Louisiana, and 6 from Arkansas for U. S. Grant.

RATIO OF REPRESENTATION IN THE HOUSE OF REPRESENTATIVES. 1789–1882.

							No. of Representatives.
From 1789 to 1792, according to the Constitution.							65
" 1792 to 1803, based on the	1st	census,	1790,	33,000,			105
" 1803 to 1812 " "	2d	"	1800,	33,000,			141
" 1812 to 1823 " "	3d	"	1810,	35,000,			181
" 1823 to 1832 " "	4th	"	1820,	40,000,			213
" 1832 to 1843 " "	5th	"	1830,	47,700,			240
" 1843 to 1852 " "	6th	"	1840,	70,680,			223
" 1852 to 1863 " "	7th	"	1850,	93,423,			234
" 1863 to 1872 " "	8th	"	1860,	127,381,			243
" 1872 to 1882 " "	9th	"	1870,	131,425,			293
" 1882 to " "	10th	"	1880,	154,325,			325

TABLE OF VOTES, BY STATES, IN THE HOUSE OF REPRESENTATIVES, ON GENERAL TARIFFS FROM 1816 TO 1861.

States.	1816		1820		1824		1828		1832		1833		1842		1846		1857		1861	
	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay	yea	nay
Maine*					1	6		7	6	1	6	1	4	2	1	6	6		3	
Massachusetts	7	4	10	6	1	11	2	11	4	8		13	10	1		9	9		9	
New Hampshire	1	3		5	1	5	4	2	5		4	1		4	3	1	2	1	2	
Vermont	5	1	1	2	5		5			3		5	4		2			3	3	
Connecticut	2	2	6	1	5	1	4	2	2	3		6	6		1	4		4	4	
Rhode Island	2		2		2		1	1		2		2	2			2	1	1	2	
New York	20	2	25		26	8	27	6	27	2	11	19	23	8	15	14	15	10	18	6
New Jersey	5		6		6		5		3	3		6	6			6	2	1	4	
Pennsylvania	17	3	22	1	24	1	23		14	12	4	21	20		2	23	3	15	22	
Delaware				2	1		1			1		1	1					1		1
Maryland	2	5	1	5	3	6	1	5	8		9		4	2	1	1	4	1		2
Virginia	7	13	1	15	1	21	3	15	11	8	20	1	3	17	13	1	13			8
North Carolina		11	1	11		13		13	8	4	13			10	7	3	6		1	6
South Carolina	4	3	1	6		9		8	3	6	9			5	7		4			
Georgia	3	3		5		7		7	1	6	6		1	7	5	2	4			
Kentucky	6	1	5	3	11		12		9	3	12		4	8	4	6	7	2	4	1
Tennessee	3	2		6	2	7		9	9		8	1		13	5	6	7		2	6
Ohio	4		6		14		13		13		7	6	8	6	11	8	5	15	13	
Indiana			1		2		3		3		2	1	3	3	5	2	3	8	5	3
Illinois			1		1		1		1		1		1	2	5		3	4	3	3
Louisiana		1		1		3		3	1	2	3		2	1	3	1	4			
Mississippi				1		1		1	1		1			3	4	1	4			
Alabama				1		3		3	2	1	3			4	7		7			
Missouri					1			1	1			1		2	5			3		5
Michigan													1			3	1	3	3	
California																	2			1

* The Tariffs of 1816, 1820, 1824, 1828, 1832, 1842, were protective tariffs; those of 1833 1846, and 1857, were reductions of the tariff to a revenue basis.

TABLE SHOWING THE DUTIES LEVIED ON THE FOLLOWING LEADING ARTICLES FROM 1789 TO 1867.

Date of Tariffs.	Sugar	Coffee	Tea—Souchong	Salt (in bulk).	Pig Iron	Bar Iron.	Glass Man'factures.	Cotton M'nf'cs	Woolen Manufactures.	Silk Goods.
July 4, 1789 . . .	1 cent p. lb	2½ cts. p. lb	13 cts. p. lb	6 cts. p. bush.	5 per cent	5 per cent.	10 per cent.	5 p. ct.	5 per cent.	5 per cent.
August 10, 1790	1½ "	4 "	18 "	12 "	5 "	7½ "	12½ "	7½ "	7½ "	7½ "
May 2, 1792 .	1½ "	4 "	18 "	12 "	10 "	10 "	15 "	10 '	10 '	10 "
June 7, 1794 . .	1½ '	5 "	18 "	12 "	15 '	15 "	20 '	12½ "	12½ to 15 per cent.	10 "
March 3, 1797 . .	2	5 "	18 "	20 "	15 "	15 "	20 "	15 "	12½ to 15 "	10 "
May 13, 1800 . .	2½ '	5 "	18 "	20 '	15 "	15 '	20 '	15 "	12½ to 15 "	12½ "
March 26, 1804 .	2½ '	5 "	18 "	Fre	17½ "	17½ "	22½ '	17½ "	15 to 17 '	15 '
July 1, 1812	5 "	10 "	36 "	*20 cents p. lb.	30 "	30 "	40 "	30	30 per cent.	25 '
April 27, 1816 . .	3 "	5 '	25 "	20 "	20 "	$30 p. ton.	20 '	25 '	25 "	25 "
May 22, 1824 .	3 '	5 '	25 '	20 "	20 "	30 "	30 p. ct. & 3 cts. p. lb	25 '	30 "	25 "
May 19, 1828 . .	3 '	5 "	25 "	20 "	$12½ p. ton.	37 '	30 p. ct. & 3 "	25 '	45 "	30 "
May, 1830 . .	3	2 "	10 "	15 "	12½ "	37 '	30 p. ct. & 3 '	25 "	45 "	30 "
July 14, 1832 . .	2½ '	Free.	Free.	10 "	10 "	30 "	30 p. ct. & 3 '	25 "	50 "	10 "
September 11, 1841	20 per cent.	"	"	10 "	20 per cent.	20 per cent.	20 per cent.	20 '	20 '	20 "
August 30, 1842 .	2½ cts. p. lb	"	"	8 cts. p. bush	$9 p. ton.	$25 per ton.	30 "	30 "	40 "	$2.50 p. lb
August 6, 1846	30 per cent.	'	"	20 per cent.	30 per cent.	30 per cent.	40 "	25 "	30 "	25 per cent.
March 3, 1857 .	24 "	"	'	15 "	24 "	24 "	30 '	19 "	24 "	19 "
March 2, 1861 .	¾ ct. p. lb.	'	"	4 cents p. bush.	$6 per ton.	$15 per ton.	30 '	25 "	25 p. c. & 12 cts. p. lb	20 "
August 5, 1861 .	2 cts. p. lb	4 cts. p. lb	15 cts. p. lb	12 cts. p. 100 lbs	6 "	15 "	30 "	25 "	25 ' "	30 '
December 24, 1861	2½ "	4 "	15 "	12 "	6 "	15 "	30 "	25 "	25 ' "	30 "
July 14, 1862 .	3 "	5 "	20 "	18 '	6 "	17 "	35 "	30 "	30 p. c. & 18 cts. p. lb	30 "
June 30, 1864 . .	3 "	5	25 '	18 "	9 '	1¢1½ c. p. lb.	40 "	35 "	40 p. c. & 24 "	60 "
March 2, 1867 . .	.	.	. . .	. . .	. . .	. . .	. . .	. .	35 p. c. & 50 '	60 "

NOTE.—In 1833 the Sliding Scale was introduced, by which, in cases where the duty exceeds 20 per cent, the excess should be reduced biennially.

STATISTICS OF THE STATES.

	Term of Governor	Judiciary.		Sessions of Legislature.
			Term.	
Alabama . .	2 years.	Elected by the people.	6 years.	Biennial.
Arkansas . .	2 "	" " "	8 "	"
California . .	4 "	" " "	12 "	"
Colorado . .	2 "	" " "	9 "	"
Connecticut .	2 "	" by Legislature.	8 "	Annual.
Delaware . .	4 "	Appointed by Governor.	Life.	Biennial.
Florida . .	4 "	" " "	"	"
Georgia .	2 "	Elected by Legislature.	4 years.	Annual.
Illinois . . .	4 "	" by the people.	9 "	Biennial.
Indiana . .	4 "	" " "	6 "	"
Iowa . . .	2 "	" " "	6 "	"
Kansas . . .	2 "	" " "	4 "	"
Kentucky . .	4 "	" " "	8 "	"
Louisiana . .	4 "	Appointed by Governor.	5 "	"
Maine . .	2 "	" " "	7 "	"
Maryland .	4 "	Elected by people.	15 "	Annual.
Massachusetts	1 "	Appt. by Gov. & Council.	Life.	"
Michigan .	2 "	Elected by the people.	8 years.	Biennial.
Minnesota .	2 "	" " "	7 "	"
Mississippi .	4 "	Appt. by Gov. & Senate.	9 "	"
Missouri . .	4 "	Elected by the people.	10 "	"
Nebraska . .	2 "	" " "	6 "	"
Nevada . . .	4 "	" " "	6 "	"
New Hampshire	2 "	Appointed by Governor.	To age of 70.	"
New Jersey .	3 "	Appt. by Gov. & Senate.	7 years.	Annual.
New York .	3 "	Elected by the people.	14 "	"
North Carolina	4 "	" " "	8 "	Biennial.
Ohio	2 "	" " "	5 "	"
Oregon . .	4 "	" " "	6 "	"
Pennsylvania	4 "	" " "	21 "	"
Rhode Island	1 "	Elected by Legislature.	Life.	Annual.
South Carolina	2 "	" " "	6 years.	"
Tennessee .	2 "	Elected by the people.	8 "	Bi-ennial.
Texas . . .	2 "	" " "	4 "	"
Vermont . .	2 "	" by Legislature.	2 "	"
Virginia . .	4 "	" " "	12 "	"
West Virginia	4 "	" " people.	12 "	"
Wisconsin .	2 "	" " "	10 "	Annual.

INDEX.

ERRATA.

Page 18, line 18, after Hildreth IV., read 111 instead of 3.
" 18, note 1, read 2d Monday in October instead of Dec. 1.
" 33, line 4, read clause 6 instead of clause 7.
" 34, " 23, read Heidleberg instead of Heidleburg.
" 50, " 9 from bottom, read 1792 instead of 1791.
" 58, " 4 from bottom, read June 25 instead of Jan. 25.
" 66, " 11, the word again should be omitted.
" 67, " 2 from bottom, after reduced, read when a vacancy should occur instead of clause in parentheses.
" 71, " 23, read *vae*, instead of *val.*
" 82, " 6, after was read not.
" 88, " 23, after Hildreth read VI. instead of V.
" 91, " 7, indelible with one l.
" 91, " 28, read VI. 353 instead of III. 352, and after Ib. 366.
" 95, " 3 from bottom, read 1809 instead of 1804.
" 116, " 5, after Dec. read 24 instead of 14.
Appendix, p. 37. Election of 1804, number of states is 17 instead of 21.